

# AN ACT

To amend sections 1.05, 9.312, 9.333, 9.83, 9.833, 9.90, 9.901, 102.02, 102.022, 103.412, 109.57, 109.572, 109.77, 109.79, 113.06, 113.07, 118.023, 118.04, 119.04, 119.12, 120.33, 121.03, 121.04, 121.22, 121.372, 121.40, 122.17, 122.171, 122.174, 122.175, 122.177, 122.64, 122.85, 122.87, 122.942, 122.95, 122.951, 123.10, 123.28, 123.281, 124.14, 124.15, 124.181, 124.392, 125.02, 125.04, 125.041, 125.05, 125.07, 125.08, 125.081, 125.082, 125.10, 125.11, 125.112, 125.13, 125.22, 125.27, 125.28, 125.31, 125.36, 125.38, 125.39, 125.42, 125.43, 125.45, 125.49, 125.51, 125.58, 125.601, 125.607, 125.609, 125.76, 125.901, 128.40, 128.54, 128.55, 128.57, 131.09, 131.15, 131.34, 131.35, 131.43, 131.44, 133.01, 133.04, 133.05, 133.07, 133.34, 135.01, 135.04, 135.14, 135.144, 135.145, 135.18, 135.181, 135.35, 135.353, 135.354, 135.37, 135.74, 140.01, 141.04, 145.012, 145.114, 145.116, 145.27, 145.56, 145.571, 149.04, 149.43, 153.08, 153.70, 156.01, 156.02, 156.04, 167.06, 173.47, 173.48, 173.522, 173.523, 173.543, 173.544, 173.545, 174.02, 187.03, 191.04, 191.06, 305.31, 306.35, 317.08, 317.36, 319.63, 321.24, 323.13, 325.03, 325.04, 325.06, 325.08, 325.09, 325.10, 325.11, 325.14, 325.15, 339.06, 340.03, 340.034, 340.04, 340.05, 340.07, 340.12, 340.15, 341.34, 343.01, 349.01, 349.03, 349.04, 349.06, 349.07, 349.14, 351.021, 353.06, 355.02, 355.03, 355.04, 505.101, 505.24, 505.701, 505.86, 507.09, 507.11, 517.07, 517.15, 717.01, 718.01, 718.04, 718.05, 718.07, 731.59, 737.41, 742.114, 742.116, 742.41, 742.462, 742.47, 759.36, 901.08, 901.21, 901.22, 902.01, 903.01, 903.03, 903.07, 903.082, 903.09, 903.10, 903.11, 903.12, 903.13, 903.16, 903.17, 903.25, 905.31, 905.323, 918.41, 929.03, 931.01, 931.02, 941.14, 953.22, 955.12, 955.121, 955.14, 955.15, 955.20, 955.27, 991.03, 1306.20, 1309.528, 1332.25, 1347.08, 1349.04, 1501.01, 1501.011, 1501.022, 1501.04, 1503.99, 1505.10, 1506.01, 1509.01, 1509.06, 1509.11, 1509.23, 1509.27, 1509.33, 1511.02, 1511.021, 1511.022, 1511.03, 1511.05, 1511.071, 1511.10, 1511.11, 1513.07, 1513.16, 1514.06, 1514.08, 1514.13, 1514.40, 1514.42, 1514.47, 1515.01, 1515.02, 1515.05, 1515.07, 1515.081, 1515.09, 1515.091, 1515.092, 1515.093, 1515.10, 1515.13, 1515.14, 1515.16, 1515.17, 1515.18, 1515.183, 1515.19, 1515.191, 1515.21, 1515.211, 1515.22, 1515.23, 1515.24, 1515.28, 1515.29, 1521.03, 1521.031, 1521.04, 1521.05, 1521.06, 1521.061, 1521.062, 1521.063, 1521.064, 1521.07, 1521.10, 1521.11, 1521.12, 1521.13, 1521.14, 1521.15, 1521.16, 1521.18, 1521.19, 1522.03, 1522.05, 1522.11, 1522.12, 1522.13, 1522.131, 1522.15, 1522.16, 1522.17, 1522.18,

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5123.1610 (5123.1611), and 5101.98 (5902.05); to enact new sections 2323.44, 3109.171, 3109.172, 5123.1610, and 5165.25 and sections 5.2298, 9.318, 9.483, 101.60, 101.61, 103.42, 109.747, 111.31, 117.54, 118.041, 122.641, 125.035, 125.061, 131.025, 133.083, 135.182, 135.731, 145.364, 153.83, 164.13, 167.041, 169.051, 173.548, 174.09, 193.15, 193.16, 193.17, 307.679, 317.241, 339.061, 340.035, 503.55, 503.56, 503.57, 505.1010, 517.073, 715.014, 742.391, 743.50, 939.01, 939.07, 1503.50, 1503.51, 1503.52, 1503.53, 1503.54, 1503.55, 1509.231, 1509.232, 1739.141, 3109.173, 3109.174, 3109.175, 3109.176, 3109.177, 3109.178, 3109.179, 3115.101, 3115.102, 3115.103, 3115.104, 3115.105, 3115.201, 3115.202, 3115.203, 3115.204, 3115.205, 3115.206, 3115.207, 3115.208, 3115.209, 3115.210, 3115.211, 3115.301, 3115.302, 3115.303, 3115.304, 3115.305, 3115.306, 3115.307, 3115.308, 3115.309, 3115.310, 3115.311, 3115.312, 3115.313, 3115.314, 3115.315, 3115.316, 3115.317, 3115.318, 3115.319, 3115.401, 3115.402, 3115.501, 3115.502, 3115.503, 3115.504, 3115.505, 3115.506, 3115.507, 3115.601, 3115.602, 3115.603, 3115.604, 3115.605, 3115.606, 3115.607, 3115.608, 3115.609, 3115.610, 3115.611, 3115.612, 3115.613, 3115.614, 3115.615, 3115.616, 3115.701, 3115.702, 3115.703, 3115.704, 3115.705, 3115.706, 3115.707, 3115.708, 3115.709, 3115.710, 3115.711, 3115.712, 3115.713, 3115.801, 3115.802, 3115.901, 3115.902, 3115.903, 3304.171, 3305.062, 3307.011, 3309.013, 3309.402, 3311.191, 3311.221, 3313.413, 3313.619, 3313.6110, 3313.721, 3314.075, 3314.085, 3314.39, 3317.018, 3317.019, 3317.0215, 3317.0216, 3317.0218, 3317.26, 3318.71, 3319.113, 3319.271, 3319.323, 3319.67, 3326.101, 3326.41, 3333.165, 3333.92, 3345.311, 3345.35, 3345.38, 3345.39, 3345.46, 3345.47, 3365.034, 3701.142, 3701.602, 3701.70, 3701.701, 3701.702, 3701.703, 3701.834, 3701.95, 3702.309, 3705.231, 3707.57, 3734.061, 3734.49, 3781.106, 3901.052, 3959.111, 4113.81, 4123.86, 4301.243, 4301.83, 4503.581, 4503.771, 4503.86, 4511.0915, 4582.56, 4730.252, 4731.071, 4731.62, 4731.74, 4743.08, 4760.133, 4762.133, 4765.161, 4765.361, 4774.133, 4778.141, 4923.041, 4927.10, 4927.101, 4928.541, 4928.542, 4928.543, 4928.544, 4928.581, 4928.582, 4928.583, 5101.612, 5101.621, 5101.622, 5101.691, 5101.692, 5104.042, 5104.29, 5120.035, 5120.037, 5123.376, 5123.621, 5124.155, 5124.68, 5124.69, 5124.70, 5160.401, 5162.365, 5163.04, 5164.78, 5166.161, 5166.24, 5166.32, 5166.33, 5166.51, 5167.04, 5167.15, 5167.16, 5167.17, 5167.32, 5167.33, 5502.132, 5505.182, 5703.361, 5703.85, 5703.95, 5703.951, 5703.952, 5703.953, 5703.954, 5705.2112, 5709.92, 5709.93, 5709.94, 5713.031, 5727.09, 5739.106, 5747.502, 5902.09, 5902.10, 6112.06, 6117.021, 6117.52, 6117.521, 6117.522, 6119.60, 6119.601, 6119.602, and 6301.16; to

repeal sections 103.132, 111.181, 121.36, 122.26, 122.952, 125.021, 125.022, 125.023, 125.03, 125.051, 125.06, 125.17, 125.32, 125.37, 125.47, 125.48, 125.50, 125.52, 125.53, 125.54, 125.55, 125.57, 125.68, 125.833, 125.91, 125.92, 125.93, 125.96, 125.98, 149.13, 183.26, 901.61, 901.62, 901.63, 901.64, 903.04, 955.29, 955.30, 955.32, 955.35, 955.351, 955.36, 955.37, 955.38, 1511.01, 1511.04, 1511.06, 1511.07, 1511.08, 1511.99, 2323.44, 3109.171, 3109.172, 3109.18, 3115.01, 3115.02, 3115.03, 3115.031, 3115.04, 3115.05, 3115.06, 3115.07, 3115.08, 3115.09, 3115.10, 3115.11, 3115.12, 3115.13, 3115.14, 3115.15, 3115.16, 3115.17, 3115.18, 3115.19, 3115.20, 3115.21, 3115.22, 3115.23, 3115.24, 3115.25, 3115.26, 3115.27, 3115.28, 3115.29, 3115.30, 3115.31, 3115.32, 3115.33, 3115.34, 3115.35, 3115.36, 3115.37, 3115.38, 3115.39, 3115.40, 3115.41, 3115.42, 3115.43, 3115.44, 3115.45, 3115.46, 3115.47, 3115.48, 3115.49, 3115.50, 3115.51, 3115.52, 3115.53, 3115.54, 3115.55, 3115.56, 3115.57, 3115.58, 3115.59, 3301.92, 3301.921, 3313.473, 3318.33, 3326.29, 3337.11, 3734.51, 3736.04, 3769.086, 3770.061, 4709.04, 4709.06, 4709.27, 4731.283, 4741.09, 5104.012, 5104.037, 5119.411, 5163.08, 5165.25, 5165.26, 5168.12, and 5739.212 of the Revised Code; to amend Section 755.40 of Sub. H.B. 53 of the 131st General Assembly, to amend Sections 125.10 and 125.11 of Am. Sub. H.B. 59 of the 130th General Assembly, to amend Section 745.10 of Am. Sub. H.B. 483 of the 130th General Assembly, to amend Section 10 of Am. Sub. H.B. 487 of the 130th General Assembly, to amend Sections 207.70, 207.200, 221.20, 235.10, 245.10, 259.10, and 509.60 of Am. H.B. 497 of the 130th General Assembly, to amend Sections 221.10, 223.10, 223.40, and 239.10 of Am. H.B. 497 of the 130th General Assembly, as subsequently amended, to amend Section 2 of Am. Sub. S.B. 1 of the 130th General Assembly, to amend Section 9 of Am. Sub. H.B. 386 of the 129th General Assembly, as subsequently amended, to amend Section 7 of Sub. H.B. 532 of the 129th General Assembly, to amend Section 5 of Am. Sub. S.B. 314 of the 129th General Assembly, to amend Section 4 of Sub. S.B. 171 of the 128th General Assembly, as subsequently amended, and to amend Section 20.15 of H.B. 215 of the 122nd General Assembly; to repeal Sections 701.10 and 701.61 of Am. Sub. H.B. 59 of the 130th General Assembly, Section 13 of Sub. H.B. 477 of the 130th General Assembly, Sections 551.10 and 733.20 of Am. Sub. H.B. 483 of the 130th General Assembly, Section 5 of Am. Sub. H.B. 486 of the 130th General Assembly, and Section 13 of Am. Sub. H.B. 487 of the 130th General Assembly; to amend section 118.023 of the Revised Code as amended by this act to terminate certain of its amendments by this act two years after their effective date; to amend the versions of sections 340.01, 340.03, 340.15, and 5119.21 of

the Revised Code that are scheduled to take effect September 15, 2016, to continue the provisions of this act on and after the effective date, to amend the version of section 4501.01 of the Revised Code that is scheduled to take effect January 1, 2017, to continue the provisions of this act on and after the effective date, to make operating appropriations for the biennium beginning July 1, 2015, and ending June 30, 2017, to provide authorization and conditions for the operation of state programs, to amend section 102.01 and to repeal sections 103.61, 103.62, 103.63, 103.64, 103.65, 103.66, and 103.67 of the Revised Code on January 1, 2016, to terminate those laws on that date, and to provide that the amendments by this act to section 5124.67 of the Revised Code terminate on July 1, 2018, when section 5124.67 of the Revised Code is repealed on that date.

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

**Section 101.01.** That sections 1.05, 9.312, 9.333, 9.83, 9.833, 9.90, 9.901, 102.02, 102.022, 103.412, 105.41, 109.57, 109.572, 109.77, 109.79, 113.06, 113.07, 118.023, 118.04, 119.04, 119.12, 121.03, 121.04, 121.22, 121.36, 121.372, 121.40, 122.17, 122.171, 122.174, 122.175, 122.177, 122.64, 122.68, 122.85, 122.87, 122.942, 122.95, 122.951, 123.10, 123.28, 123.281, 124.11, 124.14, 124.15, 124.152, 124.181, 124.34, 124.382, 124.392, 125.02, 125.04, 125.041, 125.05, 125.07, 125.08, 125.081, 125.082, 125.10, 125.11, 125.112, 125.13, 125.27, 125.28, 125.31, 125.36, 125.38, 125.39, 125.42, 125.43, 125.45, 125.49, 125.51, 125.58, 125.601, 125.607, 125.609, 125.76, 125.901, 126.32, 128.021, 128.40, 128.54, 128.55, 128.57, 131.09, 131.15, 131.34, 131.35, 131.43, 131.44, 133.01, 133.04, 133.05, 133.07, 133.34, 135.01, 135.04, 135.14, 135.144, 135.145, 135.18, 135.181, 135.35, 135.353, 135.354, 135.37, 135.74, 140.01, 141.04, 145.114, 145.116, 145.56, 145.571, 149.04, 149.43, 153.08, 153.70, 156.01, 156.02, 156.04, 167.06, 173.47, 173.48, 173.522, 173.523, 173.543, 173.544, 173.545, 174.02, 187.03, 191.04, 191.06, 305.31, 306.35, 319.63, 321.24, 323.13, 325.03, 325.04, 325.06, 325.08, 325.09, 325.10, 325.11, 325.14, 325.15, 339.06, 340.03, 340.034, 340.04, 340.05, 340.07, 340.12, 340.15, 341.34, 343.01, 349.01, 349.03, 349.04, 349.06, 349.07, 349.14, 355.02, 355.03, 355.04, 505.101, 505.24, 505.701, 505.86, 507.09, 507.11, 517.07, 517.15, 717.01, 718.01, 718.04, 718.05, 718.07, 718.37, 731.59, 737.41, 742.114, 742.116, 742.462, 742.47, 759.36, 901.08, 901.21, 901.22, 902.01, 903.01, 903.03, 903.07, 903.082, 903.09, 903.10, 903.11, 903.12, 903.13, 903.16, 903.17, 903.25, 905.31, 905.323, 918.41, 931.01, 931.02, 941.14, 953.22, 955.12, 955.121, 955.14, 955.15, 955.20, 955.27, 991.03, 1306.20, 1309.528, 1332.25, 1347.08, 1349.04, 1501.01, 1501.011, 1501.022, 1501.04, 1503.99, 1505.10, 1506.01, 1509.01, 1509.06, 1509.11, 1509.23, 1509.27, 1509.28, 1509.33, 1511.02, 1511.021, 1511.022, 1511.03, 1511.05, 1511.071, 1511.10, 1511.11, 1513.07, 1513.16, 1514.06, 1514.08, 1514.13, 1514.40, 1514.42, 1514.47, 1515.01, 1515.02, 1515.05, 1515.07, 1515.08, 1515.081, 1515.09, 1515.091, 1515.092, 1515.093, 1515.10, 1515.11, 1515.13, 1515.14, 1515.16, 1515.17, 1515.18, 1515.183, 1515.19, 1515.191, 1515.21, 1515.211, 1515.22, 1515.23, 1515.24, 1515.28, 1515.29, 1521.03, 1521.031, 1521.04, 1521.05, 1521.06, 1521.061, 1521.062, 1521.063, 1521.064, 1521.07, 1521.10, 1521.11, 1521.12, 1521.13, 1521.14, 1521.15, 1521.16, 1521.18, 1521.19, 1522.03,

1522.05, 1522.11, 1522.12, 1522.13, 1522.131, 1522.15, 1522.16, 1522.17, 1522.18, 1522.20, 1522.21, 1523.01, 1523.02, 1523.03, 1523.04, 1523.05, 1523.06, 1523.07, 1523.08, 1523.09, 1523.10, 1523.11, 1523.12, 1523.13, 1523.14, 1523.15, 1523.16, 1523.17, 1523.18, 1523.19, 1523.20, 1531.35, 1548.11, 1561.04, 1707.01, 1707.14, 1711.15, 1711.16, 1713.02, 1713.03, 1713.031, 1713.04, 1713.05, 1713.06, 1713.09, 1713.25, 1724.04, 1739.02, 1739.03, 1739.05, 1739.07, 1739.12, 1739.13, 1739.20, 1739.21, 1751.18, 1751.65, 1776.82, 2106.19, 2109.301, 2113.35, 2151.011, 2151.3514, 2151.421, 2301.03, 2305.231, 2919.21, 2923.129, 2925.03, 2929.13, 2929.18, 2929.20, 2935.33, 2951.041, 2953.25, 2967.14, 2967.193, 2969.14, 2981.12, 2981.13, 3105.171, 3109.13, 3109.14, 3109.16, 3109.17, 3119.27, 3121.03, 3301.078, 3301.0711, 3301.0712, 3301.52, 3301.53, 3301.541, 3301.55, 3301.56, 3301.57, 3301.58, 3301.922, 3301.923, 3302.02, 3302.03, 3302.036, 3302.05, 3302.15, 3305.052, 3305.08, 3305.21, 3307.152, 3307.154, 3307.371, 3307.41, 3309.157, 3309.159, 3309.66, 3309.671, 3310.03, 3310.09, 3310.14, 3310.41, 3310.522, 3310.56, 3311.19, 3313.375, 3313.41, 3313.411, 3313.603, 3313.608, 3313.6010, 3313.612, 3313.614, 3313.615, 3313.617, 3313.674, 3313.68, 3313.72, 3313.902, 3313.975, 3313.976, 3313.981, 3314.02, 3314.03, 3314.05, 3314.06, 3314.08, 3314.091, 3314.38, 3315.08, 3317.01, 3317.013, 3317.014, 3317.016, 3317.017, 3317.02, 3317.021, 3317.022, 3317.0212, 3317.0213, 3317.0217, 3317.051, 3317.06, 3317.16, 3317.161, 3317.23, 3317.231, 3317.24, 3318.02, 3318.024, 3318.054, 3318.30, 3318.40, 3319.114, 3319.22, 3319.223, 3319.303, 3319.51, 3319.61, 3323.13, 3326.10, 3326.11, 3326.32, 3326.33, 3326.50, 3327.01, 3327.02, 3328.24, 3332.10, 3333.01, 3333.011, 3333.021, 3333.03, 3333.031, 3333.032, 3333.04, 3333.041, 3333.042, 3333.043, 3333.044, 3333.045, 3333.047, 3333.048, 3333.049, 3333.0410, 3333.0411, 3333.0412, 3333.0413, 3333.05, 3333.06, 3333.07, 3333.071, 3333.08, 3333.09, 3333.10, 3333.11, 3333.12, 3333.121, 3333.122, 3333.123, 3333.124, 3333.13, 3333.14, 3333.15, 3333.16, 3333.161, 3333.162, 3333.163, 3333.164, 3333.17, 3333.171, 3333.18, 3333.19, 3333.20, 3333.21, 3333.22, 3333.23, 3333.25, 3333.26, 3333.28, 3333.29, 3333.30, 3333.31, 3333.33, 3333.34, 3333.342, 3333.35, 3333.36, 3333.37, 3333.372, 3333.373, 3333.374, 3333.375, 3333.39, 3333.391, 3333.392, 3333.43, 3333.44, 3333.50, 3333.55, 3333.58, 3333.59, 3333.61, 3333.611, 3333.612, 3333.613, 3333.62, 3333.63, 3333.64, 3333.65, 3333.66, 3333.67, 3333.68, 3333.69, 3333.71, 3333.72, 3333.73, 3333.731, 3333.74, 3333.75, 3333.76, 3333.77, 3333.78, 3333.79, 3333.82, 3333.83, 3333.84, 3333.86, 3333.87, 3333.90, 3333.91, 3334.08, 3335.02, 3335.09, 3337.10, 3345.022, 3345.05, 3345.06, 3345.061, 3345.32, 3345.421, 3345.45, 3345.48, 3345.50, 3345.51, 3345.54, 3345.692, 3345.70, 3345.72, 3345.73, 3345.74, 3345.75, 3345.76, 3345.81, 3345.86, 3354.01, 3365.02, 3365.07, 3365.15, 3501.01, 3501.12, 3501.17, 3599.03, 3701.023, 3701.045, 3701.344, 3701.501, 3701.60, 3701.65, 3702.304, 3702.74, 3702.91, 3704.05, 3704.14, 3705.08, 3709.03, 3709.05, 3709.07, 3709.41, 3714.051, 3714.07, 3714.073, 3714.08, 3714.09, 3718.03, 3734.01, 3734.02, 3734.021, 3734.029, 3734.07, 3734.50, 3734.551, 3734.57, 3734.822, 3734.901, 3736.03, 3736.05, 3736.06, 3737.17, 3737.84, 3743.07, 3743.20, 3743.44, 3743.45, 3743.63, 3743.65, 3743.75, 3745.015, 3745.11, 3745.70, 3750.081, 3750.13, 3769.03, 3769.08, 3769.083, 3769.087, 3769.089, 3769.101, 3770.01, 3770.03, 3770.05, 3770.07, 3772.02, 3772.03, 3772.99, 3773.33, 3773.41, 3773.42, 3781.10, 3794.07, 3901.491, 3903.81, 3905.33, 3905.481, 3929.86, 3959.01, 3959.12, 4115.03, 4117.01, 4117.10, 4121.03, 4121.121, 4123.322, 4301.12, 4301.43, 4301.61, 4301.639, 4303.181, 4303.182, 4303.184, 4501.21, 4503.181, 4503.535, 4503.77, 4503.78, 4505.06, 4507.21, 4511.191,



4513.611, 4513.67, 4519.10, 4707.02, 4715.18, 4723.06, 4723.08, 4723.482, 4723.50, 4723.88, 4725.40, 4725.411, 4725.51, 4729.51, 4729.53, 4729.541, 4729.56, 4729.80, 4729.82, 4729.84, 4729.86, 4730.14, 4730.25, 4731.07, 4731.141, 4731.15, 4731.22, 4731.222, 4731.225, 4731.24, 4731.26, 4731.281, 4731.282, 4731.293, 4731.295, 4731.296, 4731.297, 4731.299, 4731.41, 4732.10, 4735.06, 4735.13, 4735.141, 4736.12, 4741.03, 4741.11, 4741.12, 4741.17, 4741.19, 4741.22, 4741.31, 4760.02, 4760.03, 4760.031, 4760.032, 4760.04, 4760.05, 4760.06, 4760.13, 4760.131, 4760.132, 4760.15, 4760.16, 4760.18, 4762.06, 4762.13, 4763.01, 4763.07, 4774.06, 4774.13, 4778.06, 4778.14, 4905.71, 4905.81, 4909.161, 4923.04, 4927.01, 4927.02, 4927.07, 4927.11, 4927.15, 4928.54, 4928.55, 4929.164, 5101.073, 5101.54, 5101.60, 5101.61, 5101.611, 5101.62, 5101.69, 5101.71, 5101.72, 5101.91, 5101.92, 5101.98, 5101.99, 5103.02, 5104.01, 5104.013, 5104.015, 5104.016, 5104.017, 5104.018, 5104.03, 5104.036, 5104.04, 5104.09, 5104.30, 5104.31, 5104.34, 5104.37, 5104.38, 5104.99, 5107.05, 5107.64, 5115.04, 5119.01, 5119.10, 5119.11, 5119.161, 5119.18, 5119.186, 5119.21, 5119.23, 5119.25, 5119.28, 5119.31, 5119.33, 5119.34, 5119.341, 5119.36, 5119.361, 5119.365, 5119.41, 5119.44, 5119.61, 5119.94, 5119.99, 5120.112, 5120.135, 5120.28, 5120.38, 5120.381, 5120.382, 5122.31, 5122.36, 5123.032, 5123.033, 5123.08, 5123.16, 5123.161, 5123.162, 5123.163, 5123.164, 5123.166, 5123.167, 5123.169, 5123.19, 5123.196, 5123.198, 5123.86, 5124.101, 5124.15, 5124.33, 5124.60, 5124.61, 5124.67, 5126.042, 5126.0510, 5126.15, 5126.201, 5126.54, 5139.02, 5139.03, 5139.50, 5147.07, 5160.37, 5162.01, 5162.11, 5162.12, 5162.13, 5162.36, 5162.361, 5162.363, 5163.03, 5163.06, 5163.21, 5163.30, 5163.33, 5164.01, 5164.38, 5164.57, 5165.15, 5165.151, 5165.152, 5165.157, 5165.16, 5165.17, 5165.19, 5165.192, 5165.23, 5166.01, 5166.16, 5167.03, 5168.01, 5168.06, 5168.07, 5168.10, 5168.11, 5168.23, 5168.26, 5168.40, 5168.44, 5168.45, 5168.47, 5168.48, 5168.49, 5168.53, 5168.60, 5168.63, 5168.64, 5168.67, 5301.68, 5301.69, 5501.73, 5505.068, 5505.0610, 5505.22, 5505.261, 5513.01, 5537.05, 5575.01, 5703.057, 5703.21, 5703.36, 5705.19, 5705.194, 5705.21, 5705.212, 5705.214, 5705.34, 5709.17, 5709.62, 5709.63, 5709.632, 5709.67, 5709.73, 5713.30, 5715.01, 5715.39, 5725.22, 5725.33, 5725.98, 5726.01, 5726.50, 5727.031, 5727.06, 5727.11, 5727.111, 5727.15, 5727.75, 5727.80, 5727.81, 5727.811, 5727.84, 5727.85, 5727.86, 5729.16, 5729.98, 5733.0610, 5733.58, 5736.01, 5736.02, 5736.50, 5739.01, 5739.02, 5739.026, 5739.029, 5739.09, 5739.101, 5739.102, 5739.103, 5739.13, 5741.01, 5741.03, 5741.12, 5741.17, 5743.02, 5743.05, 5743.32, 5747.01, 5747.02, 5747.05, 5747.055, 5747.058, 5747.08, 5747.113, 5747.21, 5747.37, 5747.50, 5747.51, 5747.53, 5747.71, 5747.98, 5751.01, 5751.02, 5751.20, 5751.21, 5751.22, 5751.50, 5902.02, 5903.12, 5904.01, 5910.08, 5919.341, 6101.16, 6109.21, 6109.30, 6111.01, 6111.02, 6111.027, 6111.03, 6111.04, 6111.044, 6111.12, 6111.30, 6111.44, 6111.99, and 6131.23 be amended; sections 1511.02 (939.02), 1511.021 (939.03), 1511.022 (939.04), 1511.03 (939.06), 1511.05 (939.05), 1511.071 (939.10), 1511.10 (939.08), 1511.11 (939.09), 1515.01 (940.01), 1515.02 (940.02), 1515.03 (940.03), 1515.05 (940.04), 1515.07 (940.05), 1515.08 (940.06), 1515.081 (940.07), 1515.09 (940.08), 1515.091 (940.09), 1515.092 (940.10), 1515.093 (940.11), 1515.10 (940.12), 1515.11 (940.13), 1515.13 (940.14), 1515.14 (940.15), 1515.15 (940.16), 1515.16 (940.17), 1515.17 (940.18), 1515.18 (940.19), 1515.181 (940.20), 1515.182 (940.21), 1515.183 (940.22), 1515.184 (940.23), 1515.185 (940.24), 1515.19 (940.25), 1515.191 (940.26), 1515.192 (940.27), 1515.193 (940.28), 1515.21 (940.29), 1515.211 (940.30), 1515.22 (940.31), 1515.23 (940.32), 1515.24 (940.33), 1515.28 (940.34), 1515.29 (940.35), 3333.031

(3333.012), 5101.98 (5902.05), and 5123.1610 (5123.1611) be amended for the purpose of adopting new section numbers as indicated in parentheses; and sections 5.2298, 9.318, 9.483, 101.60, 103.42, 103.44, 103.45, 103.46, 103.47, 103.48, 103.49, 103.50, 109.747, 111.31, 117.54, 118.041, 122.641, 124.183, 124.29, 125.035, 125.061, 131.025, 133.083, 135.182, 135.731, 153.83, 167.041, 169.051, 173.548, 174.09, 307.679, 339.061, 340.035, 503.55, 503.56, 503.57, 505.1010, 517.073, 715.014, 743.50, 939.01, 939.07, 1503.50, 1503.51, 1503.52, 1503.53, 1503.54, 1503.55, 1509.231, 1509.232, 1521.20, 1739.141, 2323.44, 3109.171, 3109.172, 3109.173, 3109.174, 3109.175, 3109.176, 3109.177, 3109.178, 3109.179, 3115.101, 3115.102, 3115.103, 3115.104, 3115.105, 3115.201, 3115.202, 3115.203, 3115.204, 3115.205, 3115.206, 3115.207, 3115.208, 3115.209, 3115.210, 3115.211, 3115.301, 3115.302, 3115.303, 3115.304, 3115.305, 3115.306, 3115.307, 3115.308, 3115.309, 3115.310, 3115.311, 3115.312, 3115.313, 3115.314, 3115.315, 3115.316, 3115.317, 3115.318, 3115.319, 3115.401, 3115.402, 3115.501, 3115.502, 3115.503, 3115.504, 3115.505, 3115.506, 3115.507, 3115.601, 3115.602, 3115.603, 3115.604, 3115.605, 3115.606, 3115.607, 3115.608, 3115.609, 3115.610, 3115.611, 3115.612, 3115.613, 3115.614, 3115.615, 3115.616, 3115.701, 3115.702, 3115.703, 3115.704, 3115.705, 3115.706, 3115.707, 3115.708, 3115.709, 3115.710, 3115.711, 3115.712, 3115.713, 3115.801, 3115.802, 3115.901, 3115.902, 3115.903, 3304.171, 3305.062, 3311.191, 3311.221, 3313.413, 3313.619, 3313.6110, 3313.721, 3314.085, 3317.018, 3317.019, 3317.0215, 3317.0216, 3317.0218, 3317.26, 3318.71, 3319.113, 3319.271, 3319.323, 3319.67, 3326.101, 3326.41, 3333.165, 3333.70, 3333.92, 3335.361, 3345.311, 3345.35, 3345.38, 3345.39, 3345.46, 3345.47, 3365.034, 3365.14, 3701.139, 3701.142, 3701.602, 3701.70, 3701.701, 3701.702, 3701.703, 3701.834, 3701.95, 3702.309, 3702.3010, 3705.231, 3707.57, 3734.061, 3734.49, 3781.106, 3901.052, 3901.241, 3959.111, 4113.81, 4141.432, 4301.243, 4301.83, 4503.581, 4503.771, 4503.86, 4511.0915, 4582.56, 4730.252, 4731.071, 4731.62, 4731.74, 4760.133, 4762.133, 4765.161, 4765.361, 4774.133, 4778.141, 4923.041, 4927.10, 4927.101, 4928.541, 4928.542, 4928.543, 4928.544, 4928.581, 4928.582, 4928.583, 5101.072, 5101.612, 5101.621, 5101.622, 5101.691, 5101.692, 5103.50, 5103.51, 5103.52, 5103.53, 5103.54, 5103.55, 5104.042, 5104.29, 5120.035, 5120.037, 5123.1610, 5123.376, 5123.621, 5124.155, 5124.68, 5124.69, 5124.70, 5160.401, 5162.365, 5163.04, 5164.78, 5164.912, 5165.25, 5166.161, 5166.24, 5166.32, 5166.33, 5166.40, 5166.401, 5166.402, 5166.403, 5166.404, 5166.405, 5166.406, 5166.407, 5166.408, 5166.409, 5167.04, 5167.15, 5167.16, 5167.17, 5167.32, 5167.33, 5502.132, 5703.361, 5703.85, 5705.2112, 5709.92, 5709.93, 5709.94, 5727.09, 5739.213, 5747.502, 5913.12, 5913.13, 5913.14, 6111.051, 6117.021, 6301.16, and 6301.17 of the Revised Code be enacted to read as follows:

**Sec. 1.05.** (A) As used in the Revised Code, unless the context otherwise requires, "imprisoned" or "imprisonment" means being imprisoned under a sentence imposed for an offense or serving a term of imprisonment, prison term, jail term, term of local incarceration, or other term under a sentence imposed for an offense in an institution under the control of the department of rehabilitation and correction, a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, a minimum security jail, a community-based correctional facility, or another facility described or referred to in section 2929.34 of the Revised Code for the type of criminal offense and under the circumstances specified or referred to in that section.

(B) As used in division (A) of this section, "community-based correctional facility" has the

same meaning as in section 2929.01 of the Revised Code.

**Sec. 5.2298.**

**Sec. 9.312.** (A) If a state agency or political subdivision is required by law or by an ordinance or resolution adopted under division (C) of this section to award a contract to the lowest responsive and responsible bidder, a bidder on the contract shall be considered responsive if the bidder's proposal responds to bid specifications in all material respects and contains no irregularities or deviations from the specifications which would affect the amount of the bid or otherwise give the bidder a competitive advantage. The factors that the state agency or political subdivision shall consider in determining whether a bidder on the contract is responsible include the experience of the bidder, the bidder's financial condition, conduct and performance on previous contracts, facilities, management skills, and ability to execute the contract properly.

For purposes of this division, the provision of a bid guaranty in accordance with divisions (A) (1) and (B) of section 153.54 of the Revised Code issued by a surety licensed to do business in this state is evidence of financial responsibility, but a state agency or political subdivision may request additional financial information for review from an apparent low bidder after it opens all submitted bids. A state agency or political subdivision shall keep additional financial information it receives pursuant to a request under this division confidential, except under proper order of a court. The additional financial information is not a public record under section 149.43 of the Revised Code.

An apparent low bidder found not to be responsive and responsible shall be notified by the state agency or political subdivision of that finding and the reasons for it. Except for contracts awarded by the department of administrative services pursuant to section 125.11 of the Revised Code, the notification shall be given in writing and by certified mail. When awarding contracts pursuant to section 125.11 of the Revised Code, the department may send such notice in writing by first class mail or by electronic means.

(B) Where a state agency or a political subdivision that has adopted an ordinance or resolution under division (C) of this section determines to award a contract to a bidder other than the apparent low bidder or bidders for the construction, reconstruction, improvement, enlargement, alteration, repair, painting, or decoration of a public improvement, it shall meet with the apparent low bidder or bidders upon a filing of a timely written protest. The protest must be received within five days of the notification required in division (A) of this section. No final award shall be made until the state agency or political subdivision either affirms or reverses its earlier determination. Notwithstanding any other provisions of the Revised Code, the procedure described in this division is not subject to Chapter 119. of the Revised Code.

(C) A municipal corporation, township, school district, board of county commissioners, any other county board or commission, or any other political subdivision required by law to award contracts by competitive bidding may by ordinance or resolution adopt a policy of requiring each competitively bid contract it awards to be awarded to the lowest responsive and responsible bidder in accordance with this section.

**Sec. 9.318.**

**Sec. 9.333.** (A) No public authority shall enter into a construction management contract with a construction manager unless the construction manager provides a letter of credit pursuant to Chapter 1305. of the Revised Code, a surety bond pursuant to sections 153.54 and 153.57 of the

Revised Code, a certified check or cashier's check in an amount equal to the value of the construction management contract for the project, or provides other reasonable financial assurance of a nature and in an amount satisfactory to the public authority. The public authority may waive this requirement for good cause.

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

**Sec. 9.483.**

**Sec. 9.83.** (A) The state and any political subdivision may procure a policy or policies of insurance insuring its officers and employees against liability for injury, death, or loss to person or property that arises out of the operation of an automobile, truck, motor vehicle with auxiliary equipment, self-propelling equipment or trailer, aircraft, or watercraft by the officers or employees while engaged in the course of their employment or official responsibilities for the state or the political subdivision. The state is authorized to expend funds to pay judgments that are rendered in any court against its officers or employees and that result from such operation, and is authorized to expend funds to compromise claims for liability against its officers or employees that result from such operation. No insurer shall deny coverage under such a policy, and the state shall not refuse to pay judgments or compromise claims, on the ground that an automobile, truck, motor vehicle with auxiliary equipment, self-propelling equipment or trailer, aircraft, or watercraft was not being used in the course of an officer's or employee's employment or official responsibilities for the state or a political subdivision unless the officer or employee who was operating an automobile, truck, motor vehicle with auxiliary equipment, or self-propelling equipment or trailer is convicted of a violation of section 124.71 of the Revised Code as a result of the same events.

(B) Funds shall be reserved as necessary, in the exercise of sound and prudent actuarial judgment, to cover potential expense, fees, damage, loss, or other liability. The office of risk management may recommend or, if the state requests of the office of risk management, shall recommend a specific amount for any period of time that, in the opinion of the office of risk management, represents such a judgment.

(C) Nothing in this section shall be construed to require the department of administrative services to purchase liability insurance for all state vehicles in a single policy of insurance or to cover all state vehicles under a single plan of self-insurance.

(D) Insurance procured by the state pursuant to this section shall be procured as provided in division (G) of section 125.02 of the Revised Code.

(E) For purposes of liability insurance procured under this section to cover the operation of a motor vehicle by a prisoner for whom the insurance is procured, "employee" includes a prisoner in the custody of the department of rehabilitation and correction who is enrolled in a work program that is established by the department pursuant to section 5145.16 of the Revised Code and in which the prisoner is required to operate a motor vehicle, as defined in section 4509.01 of the Revised Code, and who is engaged in the operation of a motor vehicle in the course of the work program.

(F) All contributions collected by the director of administrative services under division (H) of this section shall be deposited into the risk management reserve fund created in section 9.823 of the

Revised Code to the credit of the vehicle liability program.

(G) Reserves shall be maintained in the risk management reserve fund to the credit of the vehicle liability program in any amount that is necessary and adequate, in the exercise of sound and prudent actuarial judgment, to cover potential liability claims, expenses, fees, or damages. Money in the fund may be applied to the payment of liability claims that are filed against the state in the court of claims and determined in the manner provided in Chapter 2743. of the Revised Code. The director of administrative services may procure the services of a qualified actuarial firm for the purpose of recommending the specific amount of money that is required to maintain adequate reserves for a specified period of time.

(H) The director of administrative services shall collect from each state agency or any participating state body its contribution to the vehicle liability program for the purpose of purchasing insurance or administering self-insurance programs for coverage authorized under this section. The amount of the contribution shall be determined by the director, with the approval of the director of budget and management. It shall be based upon actuarial assumptions and the relative risk and loss experience of each state agency or participating state body. The amount of the contribution also shall include a reasonable sum to cover administrative costs of the department of administrative services. The amounts collected pursuant to this division shall be deposited in the risk management reserve fund to the credit of the vehicle liability program.

**Sec. 9.833.** (A) As used in this section:

"Political subdivision" has the meaning defined in sections 2744.01 and 3905.36 of the Revised Code. For purposes of this section, "political subdivision" includes municipal corporations as defined in section 5705.01 of the Revised Code.

"County board" means a county board of developmental disabilities.

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

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

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

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

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

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

subject to the agreement;

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

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

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

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

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

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

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

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

funds or accounts established under this division on the basis of relative exposure and loss experience.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Sec. 9.90.** (A) The board of trustees or other governing body of a state institution of higher



education, as defined in section 3345.011 of the Revised Code, board of education of a school district, or governing board of an educational service center may, in addition to all other powers provided in the Revised Code:

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

(2) Make payments to a custodial account for investment in regulated investment company stock that is treated as an annuity under Internal Revenue Code section 403(b).

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

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

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

**Sec. 9.901.** (A)(1) Health care plans that provide benefits to persons employed by public employers as defined by this section may consider best practices established by the former school employees health care board or identified by the department of administrative services. All policies or contracts for health care benefits that are issued or renewed after the expiration of any applicable

collective bargaining agreement may consider any best practices identified under this section at the time of renewal. Health care plans that contain the best practices may be self-insured.

(2) As used in this section:

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

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

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

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

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

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

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

(1) Identify strategies to manage health care costs;

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

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

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

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

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

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

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

(C) Any health care plan providing coverage for the employees of political subdivisions, public school districts, or state institutions of higher education, or that have provided coverage within two years before June 30, 2011, shall provide nonidentifiable aggregate claims and administrative

data for the coverage provided as required by the department, without charge, within thirty days after receiving a written request from the department. The claims data shall include data relating to employee group benefit sets, demographics, and claims experience.

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

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

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

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

**Sec. 101.60.**

**Sec. 102.02.** (A)(1) Except as otherwise provided in division (H) of this section, all of the following shall file with the appropriate ethics commission the disclosure statement described in this division on a form prescribed by the appropriate commission: every person who is elected to or is a candidate for a state, county, or city office and every person who is appointed to fill a vacancy for an unexpired term in such an elective office; all members of the state board of education; the director, assistant directors, deputy directors, division chiefs, or persons of equivalent rank of any administrative department of the state; the president or other chief administrative officer of every state institution of higher education as defined in section 3345.011 of the Revised Code; the executive director and the members of the capitol square review and advisory board appointed or employed pursuant to section 105.41 of the Revised Code; all members of the Ohio casino control commission, the executive director of the commission, all professional employees of the commission, and all technical employees of the commission who perform an internal audit function; the individuals set forth in division (B)(2) of section 187.03 of the Revised Code; the chief executive officer and the members of the board of each state retirement system; each employee of a state retirement board who is a state retirement system investment officer licensed pursuant to section 1707.163 of the Revised Code; the members of the Ohio retirement study council appointed pursuant to division (C) of section 171.01 of the Revised Code; employees of the Ohio retirement study council, other than employees who perform purely administrative or clerical functions; the administrator of workers' compensation and each member of the bureau of workers' compensation board of directors; the bureau of workers' compensation director of investments; the chief investment officer of the bureau of workers' compensation; all members of the board of commissioners on grievances and discipline of the supreme court and the ethics commission created under section 102.05 of the Revised Code; every business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative education school district or an educational service center; every person who is elected to or is a candidate for the office of member of a board of

education of a city, local, exempted village, joint vocational, or cooperative education school district or of a governing board of an educational service center that has a total student count of twelve thousand or more as most recently determined by the department of education pursuant to section 3317.03 of the Revised Code; every person who is appointed to the board of education of a municipal school district pursuant to division (B) or (F) of section 3311.71 of the Revised Code; all members of the board of directors of a sanitary district that is established under Chapter 6115. of the Revised Code and organized wholly for the purpose of providing a water supply for domestic, municipal, and public use, and that includes two municipal corporations in two counties; every public official or employee who is paid a salary or wage in accordance with schedule C of section 124.15 or schedule E-2 of section 124.152 of the Revised Code; members of the board of trustees and the executive director of the southern Ohio agricultural and community development foundation; all members appointed to the Ohio livestock care standards board under section 904.02 of the Revised Code; all entrepreneurs in residence assigned by the LeanOhio office in the department of administrative services under section 125.65 of the Revised Code and every other public official or employee who is designated by the appropriate ethics commission pursuant to division (B) of this section.

(2) The disclosure statement shall include all of the following:

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

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

(ii) If the person filing the statement is a member of the general assembly, the statement shall identify every source of income and the amount of that income that was received from a legislative

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

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

(c) The name of every corporation on file with the secretary of state that is incorporated in this state or holds a certificate of compliance authorizing it to do business in this state, trust, business trust, partnership, or association that transacts business in this state in which the person filing the statement or any other person for the person's use and benefit had during the preceding calendar year an investment of over one thousand dollars at fair market value as of the thirty-first day of December of the preceding calendar year, or the date of disposition, whichever is earlier, or in which the person holds any office or has a fiduciary relationship, and a description of the nature of the investment, office, or relationship. Division (A)(2)(c) of this section does not require disclosure of the name of any bank, savings and loan association, credit union, or building and loan association with which the person filing the statement has a deposit or a withdrawable share account.

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

(e) The names of all persons residing or transacting business in the state to whom the person

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

(f) The names of all persons residing or transacting business in the state, other than a depository excluded under division (A)(2)(c) of this section, who owe more than one thousand dollars to the person filing the statement, either in the person's own name or to any person for the person's use or benefit. Division (A)(2)(f) of this section shall not be construed to require the disclosure of clients of attorneys or persons licensed under section 4732.12 of the Revised Code, or patients of persons licensed under section 4731.14 of the Revised Code, nor the disclosure of debts owed to the person resulting from the ordinary conduct of a business or profession.

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

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

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

(j) If the disclosure statement is filed by a public official or employee described in division

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

(3) A person may file a statement required by this section in person, by mail, or by electronic means.

(4) A person who is required to file a statement under this section shall file that statement according to the following deadlines, as applicable:

(a) Except as otherwise provided in divisions (A)(4)(b), (c), and (d) of this section, the person shall file the statement not later than the fifteenth day of May of each year.

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

(c) A person who is appointed to fill a vacancy for an unexpired term in an elective office shall file the statement within fifteen days after the person qualifies for office.

(d) A person who is appointed or employed after the fifteenth day of May, other than a person described in division (A)(4)(c) of this section, shall file an annual statement within ninety days after appointment or employment.

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

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

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

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

Disclosure statements filed under this division with the Ohio ethics commission by members of boards, commissions, or bureaus of the state for which no compensation is received other than

reasonable and necessary expenses shall be kept confidential. Disclosure statements filed with the Ohio ethics commission under division (A) of this section by business managers, treasurers, and superintendents of city, local, exempted village, joint vocational, or cooperative education school districts or educational service centers shall be kept confidential, except that any person conducting an audit of any such school district or educational service center pursuant to section 115.56 or Chapter 117. of the Revised Code may examine the disclosure statement of any business manager, treasurer, or superintendent of that school district or educational service center. Disclosure statements filed with the Ohio ethics commission under division (A) of this section by the individuals set forth in division (B)(2) of section 187.03 of the Revised Code shall be kept confidential. The Ohio ethics commission shall examine each disclosure statement required to be kept confidential to determine whether a potential conflict of interest exists for the person who filed the disclosure statement. A potential conflict of interest exists if the private interests of the person, as indicated by the person's disclosure statement, might interfere with the public interests the person is required to serve in the exercise of the person's authority and duties in the person's office or position of employment. If the commission determines that a potential conflict of interest exists, it shall notify the person who filed the disclosure statement and shall make the portions of the disclosure statement that indicate a potential conflict of interest subject to public inspection in the same manner as is provided for other disclosure statements. Any portion of the disclosure statement that the commission determines does not indicate a potential conflict of interest shall be kept confidential by the commission and shall not be made subject to public inspection, except as is necessary for the enforcement of Chapters 102. and 2921. of the Revised Code and except as otherwise provided in this division.

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

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

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

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

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



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

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

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

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

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

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

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

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

any county or city who receives less than one thousand dollars per year for serving in that position.

**Sec. 102.022.** Each person who is an officer or employee of a political subdivision, who receives compensation of less than sixteen thousand dollars a year for holding an office or position of employment with that political subdivision, and who is required to file a statement under section 102.02 of the Revised Code; each member of the board of trustees of a state institution of higher education as defined in section 3345.011 of the Revised Code who is required to file a statement under section 102.02 of the Revised Code; and each individual set forth in division (B)(2) of section 187.03 of the Revised Code who is required to file a statement under section 102.02 of the Revised Code, shall include in that statement, in place of the information required by divisions (A)(2)(b), (g), (h), and (i) of that section, the following information:

(A) Exclusive of reasonable expenses, identification of every source of income over five hundred dollars received during the preceding calendar year, in the officer's or employee's own name or by any other person for the officer's or employee's use or benefit, by the person filing the statement, and a brief description of the nature of the services for which the income was received. This division shall not be construed to require the disclosure of clients of attorneys or persons licensed under section 4732.12 of the Revised Code or patients of persons licensed under section 4731.14 of the Revised Code. This division shall not be construed to require a person filing the statement who derives income from a business or profession to disclose the individual items of income that constitute the gross income of the business or profession.

(B) The source of each gift of over five hundred dollars received by the person in the officer's or employee's own name or by any other person for the officer's or employee's use or benefit during the preceding calendar year, except gifts received by will or by virtue of section 2105.06 of the Revised Code, received from parents, grandparents, children, grandchildren, siblings, nephews, nieces, uncles, aunts, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, fathers-in-law, mothers-in-law, or any person to whom the person filing the statement stands in loco parentis, or received by way of distribution from any inter vivos or testamentary trust established by a spouse or by an ancestor.

**Sec. 103.412.** (A) JMOC shall oversee the medicaid program on a continuing basis. As part of its oversight, JMOC shall do all of the following:

(1) Review how the medicaid program relates to the public and private provision of health care coverage in this state and the United States;

(2) Review the reforms implemented under section 5162.70 of the Revised Code and evaluate the reforms' successes in achieving their objectives;

(3) Recommend policies and strategies to encourage both of the following:

(a) Medicaid recipients being physically and mentally able to join and stay in the workforce and ultimately becoming self-sufficient;

(b) Less use of the medicaid program.

(4) Recommend, to the extent JMOC determines appropriate, improvements in statutes and rules concerning the medicaid program;

(5) Develop a plan of action for the future of the medicaid program;

(6) Receive and consider reports submitted by local healthier buckeye councils under section 355.04 of the Revised Code.

(B) JMOC may do all of the following:

(1) Plan, advertise, organize, and conduct forums, conferences, and other meetings at which representatives of state agencies and other individuals having expertise in the medicaid program may participate to increase knowledge and understanding of, and to develop and propose improvements in, the medicaid program;

(2) Prepare and issue reports on the medicaid program;

(3) Solicit written comments on, and conduct public hearings at which persons may offer verbal comments on, drafts of its reports.

**Sec. 103.42.**

**Sec. 103.44.**

**Sec. 103.45.**

**Sec. 103.46.**

**Sec. 103.47.**

**Sec. 103.48.**

**Sec. 103.49.**

**Sec. 103.50.**

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

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

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

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

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

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

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

(B) Terms of office of each appointed member of the board shall be for three years, except that members of the general assembly appointed to the board shall be members of the board only so long as they are members of the general assembly and the chief of staff of the governor's office shall be a member of the board only so long as the appointing governor remains in office. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. In case of a vacancy occurring on the board, the president of the senate, the

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

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

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

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

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

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

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

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

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

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

(2) Operate the capitol square, and have sole authority to regulate all uses of the capitol

square. The uses shall include, but not be limited to, the casual and recreational use of the capitol square.

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

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

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

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

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

(F)(1) The board shall lease capital facilities improved by the department of administrative services or financed by the treasurer of state pursuant to Chapter 154. of the Revised Code for the use of the board, and may enter into any other agreements with the department, the Ohio public facilities commission, or any other authorized governmental agency ancillary to improvement, financing, or leasing of those capital facilities, including, but not limited to, any agreement required by the applicable bond proceedings authorized by Chapter 154. of the Revised Code. Any lease of capital facilities authorized by this section shall be governed by Chapter 154. of the Revised Code.

(2) Fees, receipts, and revenues received by the board from the state underground parking garage constitute available receipts as defined in section 154.24 of the Revised Code, and may be pledged to the payment of bond service charges on obligations issued by the treasurer of state pursuant to Chapter 154. of the Revised Code to improve, finance, or purchase capital facilities useful to the board. The treasurer of state may, with the consent of the board, provide in the bond proceedings for a pledge of all or a portion of those fees, receipts, and revenues as the treasurer of state determines. The treasurer of state may provide in the bond proceedings or by separate agreement with the board for the transfer of those fees, receipts, and revenues to the appropriate bond service fund or bond service reserve fund as required to pay the bond service charges when due, and any such provision for the transfer of those fees, receipts, and revenues shall be controlling notwithstanding any other provision of law pertaining to those fees, receipts, and revenues.

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

(G)(1) Except as otherwise provided in division (G)(2) of this section, all fees, receipts, and revenues received by the board from the state underground parking garage shall be deposited into the

state treasury to the credit of the underground parking garage operating fund, which is hereby created, to be used for the purposes specified in division (F) of this section and for the operation and maintenance of the garage. All investment earnings of the fund shall be credited to the fund.

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

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

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

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

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

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

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

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

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

the board.

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

(N) Any person may possess a firearm in a motor vehicle in the state underground parking garage at the state capitol building, if the person's possession of the firearm in the motor vehicle is not in violation of section 2923.16 of the Revised Code or any other provision of the Revised Code. Any person may store or leave a firearm in a locked motor vehicle that is parked in the state underground parking garage at the state capitol building, if the person's transportation and possession of the firearm in the motor vehicle while traveling to the garage was not in violation of section 2923.16 of the Revised Code or any other provision of the Revised Code.

**Sec. 109.57.** (A)(1) The superintendent of the bureau of criminal identification and investigation shall procure from wherever procurable and file for record photographs, pictures, descriptions, fingerprints, measurements, and other information that may be pertinent of all persons who have been convicted of committing within this state a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or any misdemeanor described in division (A)(1)(a), (A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code, of all children under eighteen years of age who have been adjudicated delinquent children for committing within this state an act that would be a felony or an offense of violence if committed by an adult or who have been convicted of or pleaded guilty to committing within this state a felony or an offense of violence, and of all well-known and habitual criminals. The person in charge of any county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution and the person in charge of any state institution having custody of a person suspected of having committed a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or any misdemeanor described in division (A)(1)(a), (A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code or having custody of a child under eighteen years of age with respect to whom there is probable cause to believe that the child may have committed an act that would be a felony or an offense of violence if committed by an adult shall furnish such material to the superintendent of the bureau. Fingerprints, photographs, or other descriptive information of a child who is under eighteen years of age, has not been arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence who is not in any other category of child specified in this division, if committed by an adult, has not been adjudicated a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult, has not been convicted of or pleaded guilty to committing a felony or an offense of violence, and is not a child with respect to whom there is probable cause to believe that the child may have committed an act that would be a felony or an offense of violence if committed by an adult shall not be procured by the superintendent or furnished by any person in charge of any county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution, except as authorized in section 2151.313 of the Revised Code.

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

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

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

(b) The style and number of the case;

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

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

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

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

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

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



facility, or state correctional institution or in any facility for delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, and any other information that the superintendent may receive from law enforcement officials of the state and its political subdivisions.

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

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

(6) The superintendent shall, upon request, assist a county coroner in the identification of a deceased person through the use of fingerprint impressions obtained pursuant to division (A)(1) of this section or collected pursuant to section 109.572 or 311.41 of the Revised Code.

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

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

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

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

(4) The Ohio law enforcement gateway shall contain the name, confidential address, and telephone number of program participants in the address confidentiality program established under sections 111.41 to 111.47 of the Revised Code.

(5) The attorney general may adopt rules under Chapter 119. of the Revised Code establishing guidelines for the operation of and participation in the Ohio law enforcement gateway. The rules may include criteria for granting and restricting access to information gathered and disseminated through the Ohio law enforcement gateway. The attorney general shall adopt rules under Chapter 119. of the Revised Code that grant access to information in the gateway regarding an address confidentiality program participant under sections 111.41 to 111.47 of the Revised Code to only chiefs of police, village marshals, county sheriffs, county prosecuting attorneys, and a designee of each of these individuals. The attorney general shall permit the state medical board and board of nursing to access and view, but not alter, information gathered and disseminated through the Ohio law enforcement gateway.

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

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

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

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

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

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

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

(2) Except as otherwise provided in this division or division (E)(3) or (4) of this section, a

rule adopted under division (E)(1) of this section may provide only for the release of information gathered pursuant to division (A) of this section that relates to the conviction of a person, or a person's plea of guilty to, a criminal offense or to the arrest of a person as provided in division (E)(3) of this section. The superintendent shall not release, and the attorney general shall not adopt any rule under division (E)(1) of this section that permits the release of, any information gathered pursuant to division (A) of this section that relates to an adjudication of a child as a delinquent child, or that relates to a criminal conviction of a person under eighteen years of age if the person's case was transferred back to a juvenile court under division (B)(2) or (3) of section 2152.121 of the Revised Code and the juvenile court imposed a disposition or serious youthful offender disposition upon the person under either division, unless either of the following applies with respect to the adjudication or conviction:

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

(b) The adjudication or conviction was for a sexually oriented offense, the juvenile court was required to classify the child a juvenile offender registrant for that offense under section 2152.82, 2152.83, or 2152.86 of the Revised Code, that classification has not been removed, and the records of the adjudication or conviction have not been sealed or expunged pursuant to sections 2151.355 to 2151.358 or sealed pursuant to section 2952.32 of the Revised Code.

(3) A rule adopted under division (E)(1) of this section may provide for the release of information gathered pursuant to division (A) of this section that relates to the arrest of a person who is eighteen years of age or older when the person has not been convicted as a result of that arrest if any of the following applies:

(a) The arrest was made outside of this state.

(b) A criminal action resulting from the arrest is pending, and the superintendent confirms that the criminal action has not been resolved at the time the criminal records check is performed.

(c) The bureau cannot reasonably determine whether a criminal action resulting from the arrest is pending, and not more than one year has elapsed since the date of the arrest.

(4) A rule adopted under division (E)(1) of this section may provide for the release of information gathered pursuant to division (A) of this section that relates to an adjudication of a child as a delinquent child if not more than five years have elapsed since the date of the adjudication, the adjudication was for an act that would have been a felony if committed by an adult, the records of the adjudication have not been sealed or expunged pursuant to sections 2151.355 to 2151.358 of the Revised Code, and the request for information is made under division (F) of this section or under section 109.572 of the Revised Code. In the case of an adjudication for a violation of the terms of community control or supervised release, the five-year period shall be calculated from the date of the adjudication to which the community control or supervised release pertains.

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

(2)(a) In addition to or in conjunction with any request that is required to be made under section 109.572, 2151.86, 3301.32, 3301.541, division (C) of section 3310.58, or section 3319.39, 3319.391, 3327.10, 3701.881, 5104.013, 5123.081, or 5153.111 of the Revised Code or that is made

under section 3314.41, 3319.392, 3326.25, or 3328.20 of the Revised Code, the board of education of any school district; the director of developmental disabilities; any county board of developmental disabilities; any provider or subcontractor as defined in section 5123.081 of the Revised Code; the chief administrator of any chartered nonpublic school; the chief administrator of a registered private provider that is not also a chartered nonpublic school; the chief administrator of any home health agency; the chief administrator of or person operating any child day-care center, type A family day-care home, or type B family day-care home licensed under Chapter 5104. of the Revised Code; the chief administrator of any head start agency; the executive director of a public children services agency; a private company described in section 3314.41, 3319.392, 3326.25, or 3328.20 of the Revised Code; or an employer described in division (J)(2) of section 3327.10 of the Revised Code may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied for employment in any position after October 2, 1989, or any individual wishing to apply for employment with a board of education may request, with regard to the individual, whether the bureau has any information gathered under division (A) of this section that pertains to that individual. On receipt of the request, subject to division (E)(2) of this section, the superintendent shall determine whether that information exists and, upon request of the person, board, or entity requesting information, also shall request from the federal bureau of investigation any criminal records it has pertaining to that individual. The superintendent or the superintendent's designee also may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code. Within thirty days of the date that the superintendent receives a request, subject to division (E)(2) of this section, the superintendent shall send to the board, entity, or person a report of any information that the superintendent determines exists, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, subject to division (E)(2) of this section, shall send the board, entity, or person a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

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

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

(3) The state board of education may request, with respect to any individual who has applied

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

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

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

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

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

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

In addition to or in conjunction with any request that is required to be made under section 3712.09 of the Revised Code with respect to an individual who has applied for employment in a position that involves providing direct care to a pediatric respite care patient, the chief administrator

of a pediatric respite care program may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied for employment in a position that does not involve providing direct care to a pediatric respite care patient, whether the bureau has any information gathered under division (A) of this section that pertains to that individual.

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

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

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

(J) As used in this section:

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

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

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

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

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a

violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, or a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense;

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

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

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

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

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

(3) On receipt of a request pursuant to section 173.27, 173.38, 173.381, 3701.881, 5164.34, 5164.341, 5164.342, 5123.081, or 5123.169 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check of the person for whom the request is made. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of, has pleaded guilty to, or (except in the case of a request pursuant to section 5164.34, 5164.341, or 5164.342 of the Revised Code) has been found eligible for intervention in lieu of conviction for any of the following, regardless of the date of the conviction, the date of entry of the guilty plea, or (except in the case of a request pursuant to section 5164.34, 5164.341, or 5164.342 of the Revised Code) the date the person was found eligible for intervention in lieu of conviction:

(a) A violation of section 959.13, 959.131, 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2905.32, 2905.33, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25,

2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 2919.121, 2919.123, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 2921.11, 2921.12, 2921.13, 2921.21, 2921.24, 2921.32, 2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12, 2923.122, 2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32, 2923.42, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.09, 2925.11, 2925.13, 2925.14, 2925.141, 2925.22, 2925.23, 2925.24, 2925.36, 2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code;

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

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

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

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

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

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

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

(5) Upon receipt of a request pursuant to section 5104.013 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions



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

(a) A violation of section 2151.421, 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.32, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.19, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.04, 2909.05, 2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 2919.22, 2919.224, 2919.225, 2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.14, 2921.34, 2921.35, 2923.01, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, a violation of section 2923.02 or 2923.03 of the Revised Code that relates to a crime specified in this division, or a second violation of section 4511.19 of the Revised Code within five years of the date of application for licensure or certification.

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

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

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been

committed prior to that date, or a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense;

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

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

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

(9) On receipt of a request for a criminal records check from the treasurer of state under section 113.041 of the Revised Code or from an individual under section 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4747.051, 4753.061, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4774.031, 4774.06, 4776.021, 4778.04, 4778.07, 4779.091, or 4783.04 of the Revised Code, accompanied by a completed form prescribed under division (C)(1) of this section and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request has been convicted of or pleaded guilty to any criminal offense in this state or any other state. Subject to division (F) of

this section, the superintendent shall send the results of a check requested under section 113.041 of the Revised Code to the treasurer of state and shall send the results of a check requested under any of the other listed sections to the licensing board specified by the individual in the request.

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

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

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

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

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

(13) On receipt of a request pursuant to section 3796.12 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in a manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to

the following:

(a) A disqualifying offense as specified in rules adopted under division (B)(2)(b) of section 3796.03 of the Revised Code if the person who is the subject of the request is an administrator or other person responsible for the daily operation of, or an owner or prospective owner, officer or prospective officer, or board member or prospective board member of, an entity seeking a license from the department of commerce under Chapter 3796. of the Revised Code;

(b) A disqualifying offense as specified in rules adopted under division (B)(2)(b) of section 3796.04 of the Revised Code if the person who is the subject of the request is an administrator or other person responsible for the daily operation of, or an owner or prospective owner, officer or prospective officer, or board member or prospective board member of, an entity seeking a license from the state board of pharmacy under Chapter 3796. of the Revised Code.

(14) On receipt of a request required by section 3796.13 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in a manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to the following:

(a) A disqualifying offense as specified in rules adopted under division (B)(8)(a) of section 3796.03 of the Revised Code if the person who is the subject of the request is seeking employment with an entity licensed by the department of commerce under Chapter 3796. of the Revised Code;

(b) A disqualifying offense as specified in rules adopted under division (B)(14)(a) of section 3796.04 of the Revised Code if the person who is the subject of the request is seeking employment with an entity licensed by the state board of pharmacy under Chapter 3796. of the Revised Code.

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

(1) The superintendent shall review or cause to be reviewed any relevant information gathered and compiled by the bureau under division (A) of section 109.57 of the Revised Code that relates to the person who is the subject of the criminal records check, including, if the criminal records check was requested under section 113.041, 121.08, 173.27, 173.38, 173.381, 1121.23, 1315.141, 1321.37, 1321.53, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3772.07, 3796.12, 3796.13, 4749.03, 4749.06, 4763.05, 5104.013, 5164.34, 5164.341, 5164.342, 5123.081, 5123.169, or 5153.111 of the Revised Code, any relevant information contained in records that have been sealed under section 2953.32 of the Revised Code;

(2) If the request received by the superintendent asks for information from the federal bureau of investigation, the superintendent shall request from the federal bureau of investigation any information it has with respect to the person who is the subject of the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 if the request is made pursuant to section 2151.86 or 5104.013 of the Revised Code or if any other Revised Code section requires fingerprint-based checks of that nature, and shall review or cause to be reviewed any information the superintendent receives from that bureau. If a request under section 3319.39 of the Revised Code asks only for information from the federal bureau of

investigation, the superintendent shall not conduct the review prescribed by division (B)(1) of this section.

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

(4) The superintendent shall include in the results of the criminal records check a list or description of the offenses listed or described in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), or (14) of this section, whichever division requires the superintendent to conduct the criminal records check. The superintendent shall exclude from the results any information the dissemination of which is prohibited by federal law.

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

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

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

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

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

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

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

(D) The results of a criminal records check conducted under this section, other than a criminal records check specified in division (A)(7) of this section, are valid for the person who is the

subject of the criminal records check for a period of one year from the date upon which the superintendent completes the criminal records check. If during that period the superintendent receives another request for a criminal records check to be conducted under this section for that person, the superintendent shall provide the results from the previous criminal records check of the person at a lower fee than the fee prescribed for the initial criminal records check.

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

(F)(1) Subject to division (F)(2) of this section, all information regarding the results of a criminal records check conducted under this section that the superintendent reports or sends under division (A)(7) or (9) of this section to the director of public safety, the treasurer of state, or the person, board, or entity that made the request for the criminal records check shall relate to the conviction of the subject person, or the subject person's plea of guilty to, a criminal offense.

(2) Division (F)(1) of this section does not limit, restrict, or preclude the superintendent's release of information that relates to the arrest of a person who is eighteen years of age or older, to an adjudication of a child as a delinquent child, or to a criminal conviction of a person under eighteen years of age in circumstances in which a release of that nature is authorized under division (E)(2), (3), or (4) of section 109.57 of the Revised Code pursuant to a rule adopted under division (E)(1) of that section.

(G) As used in this section:

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

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

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

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

**Sec. 109.747.**

**Sec. 109.77.** (A) As used in this section:

(1) "Felony" has the same meaning as in section 109.511 of the Revised Code.

(2) "Companion animal" has the same meaning as in section 959.131 of the Revised Code.

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

peace officer basic training program:

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

(b) A natural resources law enforcement staff officer, forest-fire investigator, wildlife officer, or natural resources officer of the department of natural resources;

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

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

(e) A state university law enforcement officer;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Division (B) of this section does not apply to any person serving on a permanent basis on March 28, 1985, as a park officer, forest officer, preserve officer, wildlife officer, or state watercraft officer of the department of natural resources or as an employee of a park district under section 511.232 or 1545.13 of the Revised Code, to any person serving on a permanent basis on March 6, 1986, as an employee of a conservancy district designated pursuant to section 6101.75 of the Revised Code, to any person serving on a permanent basis on January 10, 1991, as a preserve officer of the department of natural resources, to any person employed on a permanent basis on July 2, 1992, as a special police officer by the department of mental health and addiction services pursuant to section 5119.08 of the Revised Code or by the department of developmental disabilities pursuant to section 5123.13 of the Revised Code, to any person serving on a permanent basis on May 17, 2000, as a special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code, to any person serving on a permanent basis on March 19, 2003, as a special police officer employed by a municipal corporation at a municipal airport or other municipal air navigation facility described in division (A)(19) of section 109.71 of the Revised Code, to any person serving on a permanent basis on June 19, 1978, as a state university law enforcement officer pursuant to section 3345.04 of the Revised Code and who, immediately prior to June 19, 1978, was serving as a special police officer designated under authority of that section, or to any person serving on a permanent



basis on September 20, 1984, as a liquor control investigator, known after June 30, 1999, as an enforcement agent of the department of public safety, engaged in the enforcement of Chapters 4301. and 4303. of the Revised Code.

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

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

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

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

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

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

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

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

criminal history records check.

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

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

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

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

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

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

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

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

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

(H)(1) A person who was employed as a peace officer of a county, township, or municipal

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

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

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

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

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

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

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

The Ohio peace officer training commission shall determine tuition costs sufficient in the aggregate to pay the costs of operating the academy. The costs of acquiring and equipping the

academy shall be paid from appropriations made by the general assembly to the Ohio peace officer training commission for that purpose, from gifts or grants received for that purpose, or from fees for goods related to the academy.

The Ohio peace officer training commission shall create a gaming-related curriculum for gaming agents. The Ohio peace officer training commission shall use money distributed to the Ohio peace officer training academy from the Ohio law enforcement training fund to first support the academy's training programs for gaming agents and gaming-related curriculum. The Ohio peace officer training commission may utilize existing training programs in other states that specialize in training gaming agents.

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

If trainee vacancies exist, the academy may train and issue certificates of satisfactory completion to peace officers who are employed by a campus police department pursuant to section 1713.50 of the Revised Code, by a qualified nonprofit corporation police department pursuant to section 1702.80 of the Revised Code, or by a railroad company, who are amusement park police officers appointed and commissioned by a judge of the appropriate municipal court or county court pursuant to section 4973.17 of the Revised Code, or who are bank, savings and loan association, savings bank, credit union, or association of banks, savings and loan associations, savings banks, or credit unions, or hospital police officers appointed and commissioned by the secretary of state pursuant to sections 4973.17 to 4973.22 of the Revised Code, provided that no such officer shall be trained at the academy unless the officer meets the qualifications established for admission to the academy and the qualified nonprofit corporation police department; bank, savings and loan association, savings bank, credit union, or association of banks, savings and loan associations, savings banks, or credit unions; railroad company; hospital; or amusement park or the private college or university that established the campus police department prepays the entire cost of the training. A qualified nonprofit corporation police department; bank, savings and loan association, savings bank, credit union, or association of banks, savings and loan associations, savings banks, or credit unions; railroad company; hospital; or amusement park or a private college or university that has established a campus police department is not entitled to reimbursement from the state for any amount paid for the cost of training the bank, savings and loan association, savings bank, credit union, or association of banks, savings and loan associations, savings banks, or credit unions peace officers; the railroad company's peace officers; or the peace officers of the qualified nonprofit corporation police department, campus police department, hospital, or amusement park.

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

The academy shall permit tactical medical professionals to attend training courses at the

academy that are designed to qualify the professionals to carry firearms while on duty under section 109.771 of the Revised Code and that provide training comparable to training mandated under the rules required by division (A) of section 109.748 of the Revised Code. The executive director of the Ohio peace officer training commission may certify tactical medical professionals who satisfactorily complete the training courses. The law enforcement agency served by a tactical medical professional who attends the academy may pay the tuition costs of the professional.

(B) As used in this section:

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

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

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

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

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

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

(5) "Companion animal" has the same meaning as in section 959.131 of the Revised Code.

**Sec. 111.31.**

**Sec. 113.06.** (A) Subject to the provisions of this section, the treasurer of state may open as many receiving offices as are necessary for the expedient collection of taxes and fees. The treasurer of state or the treasurer of state's deputies may attend at such offices and receive payment of all taxes and fees or, if adequate security protection is afforded all funds involved, the treasurer of state may appoint a financial institution or a cashier thereof as the treasurer of state's agent or deputy for the collection of taxes and fees. The treasurer of state may fix the time and place at which taxes and fees will be received in such receiving offices. Except for financial institutions or cashiers thereof appointed as agents or deputies for the collection of taxes and fees, the treasurer of state may operate receiving offices only in counties exceeding one million in population.

(B) The reasonable and necessary expenses incurred by the treasurer of state in the collection of taxes and fees at such receiving offices may be paid as other expenses of the treasurer of state's office from funds appropriated for such purposes.

(C) The treasurer of state may deposit in any financial institution located at a place of collection any money received in the payment of taxes and fees, as provided in division (A) of this section. A financial institution receiving any such deposits shall deposit with or pledge to the treasurer of state such securities as the treasurer of state considers sufficient to meet the requirements of section 135.18, 135.181, or 135.182 of the Revised Code. The liability of the treasurer of state for any losses of money so collected or deposited shall be the same as provided in section 135.19 of the Revised Code.

**Sec. 113.07.** The treasurer of state may enter into a contract with any financial institution under which the financial institution, in accordance with the terms of the contract, receives tax and fee payments at a post office box, opens the mail delivered to that box, processes the checks and other payments received in such mail and deposits them into the treasurer of state's account, and provides the treasurer of state daily receipt information with respect to such payments. The contract shall not be entered into unless:

(A) There is attached to the contract a certification by the auditor of state that the financial institution and the treasurer of state have given assurances satisfactory to the auditor of state that the records of the financial institution which relate to tax and fee payments covered by the contract, and only such records, shall be subject to audit by the auditor of state to the same extent as if the services which the financial institution has agreed to perform were being performed by the treasurer of state;

(B) The contract is awarded in accordance with Chapter 125. of the Revised Code;

(C) The treasurer of state's surety bond includes within its coverage any loss that may occur as the result of the contract;

(D) The contract does not conflict with the requirements for accounting and financial reporting for public offices prescribed by the auditor of state.

**Sec. 117.54.**

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

(B) Within ninety days after the day a written declaration of the existence of a fiscal watch is issued under division (A) of this section, the mayor of the municipal corporation, the board of county commissioners of the county, or the board of township trustees of the township for which a fiscal watch was declared shall submit to the auditor of state a financial recovery plan that shall identify actions to be taken to eliminate all of the conditions described in section 118.022 of the Revised Code, and shall include a schedule detailing the approximate dates for beginning and completing the actions and a five-year forecast reflecting the effects of the actions. The financial recovery plan also shall evaluate the feasibility of entering into shared services agreements with other political subdivisions for the joint exercise of any power, performance of any function, or rendering of any service, if so authorized by statute. The financial recovery plan is subject to review and approval by the auditor of state. The auditor of state may extend the amount of time by which a financial recovery plan is required to be filed, for good cause shown.

(C) The auditor of state shall declare that a fiscal emergency condition exists under section 118.04 of the Revised Code in the municipal corporation, county, or township if either of the following applies:

(1) A feasible financial recovery plan for a municipal corporation, county, or township for which a fiscal watch was declared is not submitted within the time period prescribed by division (B)

of this section, or within any extension of time thereof; or

(2) The auditor of state finds that a municipal corporation, county, or township for which a fiscal watch has been declared has not made reasonable proposals or otherwise taken action to discontinue or correct the fiscal practices or budgetary conditions that prompted the declaration of fiscal watch, and the auditor determines a fiscal emergency declaration is necessary to prevent further decline.

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

(B) In making such determination, the auditor of state may rely on reports or other information filed or otherwise made available by the municipal corporation, county, or township, accountants' reports, or other sources and data the auditor of state considers reliable for such purpose. As to the status of funds or accounts, a determination that the amounts stated in section 118.03 of the Revised Code are exceeded may be made without need for determination of the specific amount of the excess. The auditor of state may engage the services of independent certified or registered public accountants, including public accountants engaged or previously engaged by the municipal corporation, county, or township, to conduct audits or make reports or render such opinions as the auditor of state considers desirable with respect to any aspect of the determinations to be made by the auditor of state.

(C) A determination by the auditor of state under this section that a fiscal emergency condition does not exist is final and conclusive and not appealable. A determination by the auditor of state under this section that a fiscal emergency exists is final, except that the mayor of any municipal corporation affected by a determination of the existence of a fiscal emergency condition under this section, when authorized by a majority of the members of the legislative authority, or the board of county commissioners or board of township trustees, may appeal the determination of the existence

of a fiscal emergency condition to the court of appeals having territorial jurisdiction over the municipal corporation, county, or township. The appeal shall be heard expeditiously by the court of appeals and for good cause shown shall take precedence over all other civil matters except earlier matters of the same character. Notice of such appeal must be filed with the auditor of state and such court within thirty days after certification by the auditor of state to the mayor and presiding officer of the legislative authority of the municipal corporation or to the board of county commissioners or board of township trustees as provided for in division (A) of this section. In such appeal, determinations of the auditor of state shall be presumed to be valid and the municipal corporation, county, or township shall have the burden of proving, by clear and convincing evidence, that each of the determinations made by the auditor of state as to the existence of a fiscal emergency condition under section 118.03 of the Revised Code was in error. If the municipal corporation, county, or township fails, upon presentation of its case, to prove by clear and convincing evidence that each such determination by the auditor of state was in error, the court shall dismiss the appeal. The municipal corporation, county, or township and the auditor of state may introduce any evidence relevant to the existence or nonexistence of such fiscal emergency conditions at the times indicated in the applicable provisions of divisions (A) and (B) of section 118.03 of the Revised Code. The pendency of any such appeal shall not affect or impede the operations of this chapter; no restraining order, temporary injunction, or other similar restraint upon actions consistent with this chapter shall be imposed by the court or any court pending determination of such appeal; and all things may be done under this chapter that may be done regardless of the pendency of any such appeal. Any action taken or contract executed pursuant to this chapter during the pendency of such appeal is valid and enforceable among all parties, notwithstanding the decision in such appeal. If the court of appeals reverses the determination of the existence of a fiscal emergency condition by the auditor of state, the determination no longer has any effect, and any procedures undertaken as a result of the determination shall be terminated.

(D) All expenses incurred by the auditor of state relating to a determination or termination of a fiscal emergency under this section, a fiscal watch under section 118.021 of the Revised Code, or a fiscal caution under section 118.025 of the Revised Code, including providing technical and support services, or for conducting a performance audit under section 118.041 of the Revised Code, shall be reimbursed from an appropriation for that purpose. If necessary, the controlling board may provide sufficient funds for these purposes.

**Sec. 118.041.**

**Sec. 119.04.** (A)(1) Any rule adopted by any agency shall be effective on the tenth day after the day on which the rule in final form and in compliance with division (A)(2) of this section is filed as follows:

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

(b) The rule shall be filed in electronic form with the joint committee on agency rule review. Division (A)(1)(b) of this section does not apply to any rule to which division (C) of section 119.03 of the Revised Code does not apply.

If an agency in adopting a rule designates an effective date that is later than the effective date provided for by this division, the rule if filed as required by this division shall become effective on



the later date designated by the agency.

An agency that adopts or amends a rule that is subject to section 106.03 of the Revised Code shall assign a review date to the rule that is not later than five years after its effective date. If a review date assigned to a rule exceeds the five-year maximum, the review date for the rule is five years after its effective date. A rule with a review date is subject to review under section 106.03 of the Revised Code.

(2) The agency shall file the rule in compliance with the following standards and procedures:

(a) The rule shall be numbered in accordance with the numbering system devised by the director for the Ohio administrative code.

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

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

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

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

(3) As used in this section, "rule" includes an amendment or rescission of a rule.

(B) The secretary of state and the director shall preserve the rules filed under division (A)(1) (a) of this section in an accessible manner. Each such rule shall be a public record open to public inspection and may be transmitted to any law publishing company that wishes to reproduce it.

**Sec. 119.12.** (A)(1) Except as provided in division (A)(2) or (3) of this section, any party adversely affected by any order of an agency issued pursuant to an adjudication denying an applicant admission to an examination, or denying the issuance or renewal of a license or registration of a licensee, or revoking or suspending a license, or allowing the payment of a forfeiture under section 4301.252 of the Revised Code may appeal from the order of the agency to the court of common pleas of the county in which the place of business of the licensee is located or the county in which the licensee is a resident.

(2) An appeal from an order described in division (A)(1) of this section issued by any of the following agencies shall be made to the court of common pleas of Franklin county:

(a) The liquor control commission;

(b) The Ohio casino control commission;

(c) The state medical board;

~~(e)~~(d) The state chiropractic board;

~~(d)~~(e) The board of nursing;

~~(e)~~(f) The bureau of workers' compensation regarding participation in the health partnership program created in sections 4121.44 and 4121.441 of the Revised Code.

(3) If any party appealing from an order described in division (A)(1) of this section is not a resident of and has no place of business in this state, the party may appeal to the court of common pleas of Franklin county.

(B) Any party adversely affected by any order of an agency issued pursuant to any other adjudication may appeal to the court of common pleas of Franklin county, except that appeals from orders of the fire marshal issued under Chapter 3737. of the Revised Code may be to the court of common pleas of the county in which the building of the aggrieved person is located and except that appeals under division (B) of section 124.34 of the Revised Code from a decision of the state personnel board of review or a municipal or civil service township civil service commission shall be taken to the court of common pleas of the county in which the appointing authority is located or, in the case of an appeal by the department of rehabilitation and correction, to the court of common pleas of Franklin county.

(C) This section does not apply to appeals from the department of taxation.

(D) Any party desiring to appeal shall file a notice of appeal with the agency setting forth the order appealed from and stating that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The notice of appeal may, but need not, set forth the specific grounds of the party's appeal beyond the statement that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The notice of appeal shall also be filed by the appellant with the court. In filing a notice of appeal with the agency or court, the notice that is filed may be either the original notice or a copy of the original notice. Unless otherwise provided by law relating to a particular agency, notices of appeal shall be filed within fifteen days after the mailing of the notice of the agency's order as provided in this section. For purposes of this paragraph, an order includes a determination appealed pursuant to division (C) of section 119.092 of the Revised Code. The amendments made to this paragraph by Sub. H.B. 215 of the 128th general assembly are procedural, and this paragraph as amended by those amendments shall be applied retrospectively to all appeals pursuant to this paragraph filed before September 13, 2010, but not earlier than May 7, 2009, which was the date the supreme court of Ohio released its opinion and judgment in *Medcorp, Inc. v. Ohio Dep't. of Job and Family Servs.* (2009), 121 Ohio St.3d 622.

(E) The filing of a notice of appeal shall not automatically operate as a suspension of the order of an agency. If it appears to the court that an unusual hardship to the appellant will result from the execution of the agency's order pending determination of the appeal, the court may grant a suspension and fix its terms. If an appeal is taken from the judgment of the court and the court has previously granted a suspension of the agency's order as provided in this section, the suspension of the agency's order shall not be vacated and shall be given full force and effect until the matter is finally adjudicated. No renewal of a license or permit shall be denied by reason of the suspended order during the period of the appeal from the decision of the court of common pleas. In the case of an appeal from the Ohio casino control commission, the state medical board, or the state chiropractic board, the court may grant a suspension and fix its terms if it appears to the court that an unusual hardship to the appellant will result from the execution of the agency's order pending determination of the appeal and the health, safety, and welfare of the public will not be threatened by suspension of the order. This provision shall not be construed to limit the factors the court may consider in determining whether to suspend an order of any other agency pending determination of an appeal.

(F) The final order of adjudication may apply to any renewal of a license or permit which has been granted during the period of the appeal.

(G) Notwithstanding any other provision of this section, any order issued by a court of common pleas or a court of appeals suspending the effect of an order of the liquor control commission issued pursuant to Chapter 4301. or 4303. of the Revised Code that suspends, revokes, or cancels a permit issued under Chapter 4303. of the Revised Code or that allows the payment of a forfeiture under section 4301.252 of the Revised Code shall terminate not more than six months after the date of the filing of the record of the liquor control commission with the clerk of the court of common pleas and shall not be extended. The court of common pleas, or the court of appeals on appeal, shall render a judgment in that matter within six months after the date of the filing of the record of the liquor control commission with the clerk of the court of common pleas. A court of appeals shall not issue an order suspending the effect of an order of the liquor control commission that extends beyond six months after the date on which the record of the liquor control commission is filed with a court of common pleas.

(H) Notwithstanding any other provision of this section, any order issued by a court of common pleas or a court of appeals suspending the effect of an order of the Ohio casino control commission issued under Chapter 3772. of the Revised Code that limits, conditions, restricts, suspends, revokes, denies, not renews, fines, or otherwise penalizes an applicant, licensee, or person excluded or ejected from a casino facility in accordance with section 3772.031 of the Revised Code shall terminate not more than six months after the date of the filing of the record of the Ohio casino control commission with the clerk of the court of common pleas and shall not be extended. The court of common pleas, or the court of appeals on appeal, shall render a judgment in that matter within six months after the date of the filing of the record of the Ohio casino control commission with the clerk of the court of common pleas. A court of appeals shall not issue an order suspending the effect of an order of the Ohio casino control commission that extends beyond six months after the date on which the record of the Ohio casino control commission is filed with the clerk of a court of common pleas.

(I) Notwithstanding any other provision of this section, any order issued by a court of common pleas suspending the effect of an order of the state medical board or state chiropractic board that limits, revokes, suspends, places on probation, or refuses to register or reinstate a certificate issued by the board or reprimands the holder of the certificate shall terminate not more than fifteen months after the date of the filing of a notice of appeal in the court of common pleas, or upon the rendering of a final decision or order in the appeal by the court of common pleas, whichever occurs first.

~~(H)~~(J) Within thirty days after receipt of a notice of appeal from an order in any case in which a hearing is required by sections 119.01 to 119.13 of the Revised Code, the agency shall prepare and certify to the court a complete record of the proceedings in the case. Failure of the agency to comply within the time allowed, upon motion, shall cause the court to enter a finding in favor of the party adversely affected. Additional time, however, may be granted by the court, not to exceed thirty days, when it is shown that the agency has made substantial effort to comply. The record shall be prepared and transcribed, and the expense of it shall be taxed as a part of the costs on the appeal. The appellant shall provide security for costs satisfactory to the court of common pleas. Upon demand by any interested party, the agency shall furnish at the cost of the party requesting it a copy of the stenographic report of testimony offered and evidence submitted at any hearing and a copy of the complete record.

~~(J)~~(K) Notwithstanding any other provision of this section, any party desiring to appeal an order or decision of the state personnel board of review shall, at the time of filing a notice of appeal with the board, provide a security deposit in an amount and manner prescribed in rules that the board shall adopt in accordance with this chapter. In addition, the board is not required to prepare or transcribe the record of any of its proceedings unless the appellant has provided the deposit described above. The failure of the board to prepare or transcribe a record for an appellant who has not provided a security deposit shall not cause a court to enter a finding adverse to the board.

~~(K)~~(L) Unless otherwise provided by law, in the hearing of the appeal, the court is confined to the record as certified to it by the agency. Unless otherwise provided by law, the court may grant a request for the admission of additional evidence when satisfied that the additional evidence is newly discovered and could not with reasonable diligence have been ascertained prior to the hearing before the agency.

~~(L)~~(M) The court shall conduct a hearing on the appeal and shall give preference to all proceedings under sections 119.01 to 119.13 of the Revised Code, over all other civil cases, irrespective of the position of the proceedings on the calendar of the court. An appeal from an order of the state medical board issued pursuant to division (G) of either section 4730.25 or 4731.22 of the Revised Code, the state chiropractic board issued pursuant to section 4734.37 of the Revised Code, the liquor control commission issued pursuant to Chapter 4301. or 4303. of the Revised Code, or the Ohio casino control commission issued pursuant to Chapter 3772. of the Revised Code shall be set down for hearing at the earliest possible time and takes precedence over all other actions. The hearing in the court of common pleas shall proceed as in the trial of a civil action, and the court shall determine the rights of the parties in accordance with the laws applicable to a civil action. At the hearing, counsel may be heard on oral argument, briefs may be submitted, and evidence may be introduced if the court has granted a request for the presentation of additional evidence.

~~(M)~~(N) The court may affirm the order of the agency complained of in the appeal if it finds, upon consideration of the entire record and any additional evidence the court has admitted, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of this finding, it may reverse, vacate, or modify the order or make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law. The court shall award compensation for fees in accordance with section 2335.39 of the Revised Code to a prevailing party, other than an agency, in an appeal filed pursuant to this section.

~~(N)~~(O) The judgment of the court shall be final and conclusive unless reversed, vacated, or modified on appeal. These appeals may be taken either by the party or the agency, shall proceed as in the case of appeals in civil actions, and shall be pursuant to the Rules of Appellate Procedure and, to the extent not in conflict with those rules, Chapter 2505. of the Revised Code. An appeal by the agency shall be taken on questions of law relating to the constitutionality, construction, or interpretation of statutes and rules of the agency, and, in the appeal, the court may also review and determine the correctness of the judgment of the court of common pleas that the order of the agency is not supported by any reliable, probative, and substantial evidence in the entire record.

The court shall certify its judgment to the agency or take any other action necessary to give its judgment effect.

**Sec. 121.03.** The following administrative department heads shall be appointed by the

governor, with the advice and consent of the senate, and shall hold their offices during the term of the appointing governor, and are subject to removal at the pleasure of the governor.

- (A) The director of budget and management;
- (B) The director of commerce;
- (C) The director of transportation;
- (D) The director of agriculture;
- (E) The director of job and family services;
- (F) Until July 1, 1997, the director of liquor control;
- (G) The director of public safety;
- (H) The superintendent of insurance;
- (I) The director of development services;
- (J) The tax commissioner;
- (K) The director of administrative services;
- (L) The director of natural resources;
- (M) The director of mental health and addiction services;
- (N) The director of developmental disabilities;
- (O) The director of health;
- (P) The director of youth services;
- (Q) The director of rehabilitation and correction;
- (R) The director of environmental protection;
- (S) The director of aging;
- (T) The administrator of workers' compensation who meets the qualifications required under division (A) of section 4121.121 of the Revised Code;
- (U) The director of veterans services who meets the qualifications required under section 5902.01 of the Revised Code;
- (V) The chancellor of higher education;
- (W) The medicaid director.

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

In the department of commerce:

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

In the department of administrative services:

- Equal employment opportunity coordinator.

In the department of agriculture:

Chiefs of divisions as follows:

- Administration;
- Animal health;

- Livestock environmental permitting;
- Soil and water conservation;
- Dairy;
- Food safety;
- Plant health;
- Markets;
- Meat inspection;
- Consumer protection laboratory;
- Amusement ride safety;
- Enforcement;
- Weights and measures.

In the department of natural resources:

Chiefs of divisions as follows:

- Mineral resources management;
- Oil and gas resources management;
- Forestry;
- Natural areas and preserves;
- Wildlife;
- Geological survey;
- Parks and watercraft;
- Water resources;
- Engineering.

In the department of insurance:

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

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

(B) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) A grand jury;

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

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

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

(5) Meetings of a child fatality review board established under section 307.621 of the Revised Code, meetings related to a review conducted pursuant to guidelines established by the director of health under section 3701.70 of the Revised Code, and meetings conducted pursuant to sections 5153.171 to 5153.173 of the Revised Code;

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

(7) The board of nursing when determining whether to suspend a license or certificate without a prior hearing pursuant to division (B) of section 4723.281 of the Revised Code;

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

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

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

(11) The board of directors of the nonprofit corporation formed under section 187.01 of the

Revised Code or any committee thereof, and the board of directors of any subsidiary of that corporation or a committee thereof;

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

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

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

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

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

- (1) Marketing plans;
- (2) Specific business strategy;
- (3) Production techniques and trade secrets;
- (4) Financial projections;
- (5) Personal financial statements of the applicant or members of the applicant's immediate family, including, but not limited to, tax records or other similar information not open to public inspection.

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

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

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



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

(1) To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the public employee, official, licensee, or regulated individual requests a public hearing. Except as otherwise provided by law, no public body shall hold an executive session for the discipline of an elected official for conduct related to the performance of the elected official's official duties or for the elected official's removal from office. If a public body holds an executive session pursuant to division (G)(1) of this section, the motion and vote to hold that executive session shall state which one or more of the approved purposes listed in division (G)(1) of this section are the purposes for which the executive session is to be held, but need not include the name of any person to be considered at the meeting.

(2) To consider the purchase of property for public purposes, the sale of property at competitive bidding, or the sale or other disposition of unneeded, obsolete, or unfit-for-use property in accordance with section 505.10 of the Revised Code, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest. No member of a public body shall use division (G)(2) of this section as a subterfuge for providing covert information to prospective buyers or sellers. A purchase or sale of public property is void if the seller or buyer of the public property has received covert information from a member of a public body that has not been disclosed to the general public in sufficient time for other prospective buyers and sellers to prepare and submit offers.

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

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

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

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

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

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

(8) To consider confidential information related to the marketing plans, specific business strategy, production techniques, trade secrets, or personal financial statements of an applicant for

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

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

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

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

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

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

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

(2)(a) If the court of common pleas issues an injunction pursuant to division (I)(1) of this section, the court shall order the public body that it enjoins to pay a civil forfeiture of five hundred dollars to the party that sought the injunction and shall award to that party all court costs and, subject to reduction as described in division (I)(2) of this section, reasonable attorney's fees. The court, in its discretion, may reduce an award of attorney's fees to the party that sought the injunction or not award attorney's fees to that party if the court determines both of the following:

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

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

(b) If the court of common pleas does not issue an injunction pursuant to division (I)(1) of

this section and the court determines at that time that the bringing of the action was frivolous conduct, as defined in division (A) of section 2323.51 of the Revised Code, the court shall award to the public body all court costs and reasonable attorney's fees, as determined by the court.

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

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

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

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

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

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

(2) A veterans service commission shall not exclude an applicant for, recipient of, or former recipient of financial assistance under sections 5901.01 to 5901.15 of the Revised Code, and shall not exclude representatives selected by the applicant, recipient, or former recipient, from a meeting that the commission conducts as an executive session that pertains to the applicant's, recipient's, or former recipient's application for financial assistance.

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

**Sec. 121.36.** (A) As used in this section, "home care dependent adult" means an individual who resides in a private home or other noninstitutional and unlicensed living arrangement, without the presence of a parent or guardian, but has health and safety needs that require the provision of regularly scheduled home care services to remain in the home or other living arrangement because one of the following is the case:

(1) The individual is at least twenty-one years of age but less than sixty years of age and has a physical disability or mental impairment.

(2) The individual is sixty years of age or older, regardless of whether the individual has a physical disability or mental impairment.

(B) Except as provided in division (D) of this section, the departments of developmental disabilities, aging, job and family services, and health shall each implement this section with respect to all contracts entered into by the department for the provision of home care services to home care dependent adults that are paid for in whole or in part with federal, state, or local funds. Except as provided in division (D) of this section, each department shall also require all public and private

entities that receive money from or through the department to comply with this section when entering into contracts for the provision of home care services to home care dependent adults that are paid for in whole or in part with federal, state, or local funds. Such entities may include county boards of developmental disabilities, area agencies on aging, county departments of job and family services, and boards of health of city and general health districts.

(C) Beginning one year after September 26, 2003, each contract subject to this section shall include terms requiring that the provider of home care services to home care dependent adults have a system in place that effectively monitors the delivery of the services by its employees. To be considered an effective monitoring system for purposes of the contract, the system established by a provider must include at least the following components:

(1) When providing home care services to home care dependent adults who have a mental impairment or life-threatening health condition, a mechanism to verify whether the provider's employees are present at the location where the services are to be provided and at the time the services are to be provided;

(2) When providing home care services to all other home care dependent adults, a system to verify at the end of each working day whether the provider's employees have provided the services at the proper location and time;

(3) A protocol to be followed in scheduling a substitute employee when the monitoring system identifies that an employee has failed to provide home care services at the proper location and time, including standards for determining the length of time that may elapse without jeopardizing the health and safety of the home care dependent adult;

(4) Procedures for maintaining records of the information obtained through the monitoring system;

(5) Procedures for compiling annual reports of the information obtained through the monitoring system, including statistics on the rate at which home care services were provided at the proper location and time;

(6) Procedures for conducting random checks of the accuracy of the monitoring system. For purposes of conducting these checks, a random check is considered to be a check of not more than five per cent of the home care visits the provider's employees make to different home care dependent adults within a particular work shift.

(D) In implementing this section, the departments shall exempt providers of home care services who are self-employed providers with no other employees or are otherwise considered by the departments not to be agency providers. The departments shall conduct a study on how the exempted providers may be made subject to the requirement of effectively monitoring whether home care services are being provided and have been provided at the proper location and time. Not later than two years after September 26, 2003, the departments shall prepare a report of their findings and recommendations. The report shall be submitted to the president of the senate and the speaker of the house of representatives.

(E) The departments of developmental disabilities, aging, job and family services, and health shall each adopt rules as necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

**Sec. 121.372.** (A) As used in this section, "substitute care provider" means any of the

following:

(1) A community addiction services provider, as defined in section 5119.01 of the Revised Code;

(2) An institution or association subject to certification under section 5103.03 of the Revised Code;

(3) A residential facility subject to licensure under section 5119.34 of the Revised Code;

(4) A residential facility subject to licensure under section 5123.19 of the Revised Code.

(B) Not later than ninety days after March 18, 1999, the members of the Ohio family and children first cabinet council, other than the director of budget and management, shall enter into an agreement to establish an office to perform the duties prescribed by division (C) of this section. The agreement shall specify one of the departments represented on the council as the department responsible for housing and supervising the office. The agreement shall include the recommendation of the council for funding the office.

(C) The office established pursuant to the agreement entered into under this section shall review rules governing the certification and licensure of substitute care providers and determine which of the rules can be made substantively identical or more similar in order to minimize the number of differing certification and licensure standards and simplify the certification or licensure process for substitute care providers seeking certification or licensure from two or more of the departments represented on the council. The office shall provide county family and children first councils, substitute care providers, and persons interested in substitute care providers the opportunity to help the office with the review and determination. The office shall report its findings to the council. Each of the departments represented on the council that has adopted rules governing the certification or licensure of substitute care providers shall review the report and amend the rules as that department considers appropriate, except that no rule shall be amended so as to make it inconsistent with substitute care provider certification or licensure procedures and standards established by federal or state law. A department shall give priority to amendments that will not increase the department's administrative costs. In amending a rule, a department shall comply with Chapter 119. or section 111.15 of the Revised Code, as required by the Revised Code section governing the adoption of the particular rule.

(D) In accordance with section 124.27 of the Revised Code, the council shall select a coordinator to oversee the office established pursuant to the agreement entered into under this section. The coordinator shall be in the classified service. In addition to overseeing the office, the coordinator shall perform any other duties the council assigns to the coordinator. The duties the council assigns to the coordinator shall be related to the duties of the office under division (C) of this section.

**Sec. 121.40.** (A) There is hereby created the Ohio commission on service and volunteerism consisting of nineteen voting members including the superintendent of public instruction or the superintendent's designee, the chancellor of higher education or the chancellor's designee, the director of youth services or the director's designee, the director of aging or the director's designee, and fifteen members who shall be appointed by the governor with the advice and consent of the senate and who shall serve terms of office of three years. The appointees shall include educators, including teachers and administrators; representatives of youth organizations; students and parents;

representatives of organizations engaged in volunteer program development and management throughout the state, including youth and conservation programs; and representatives of business, government, nonprofit organizations, social service agencies, veterans organizations, religious organizations, or philanthropies that support or encourage volunteerism within the state. The director of the governor's office of faith-based and community initiatives shall serve as a nonvoting ex officio member of the commission. Members of the commission shall receive no compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(B) The commission shall appoint an executive director for the commission, who shall be in the unclassified civil service. The governor shall be informed of the appointment of an executive director before such an appointment is made. The executive director shall supervise the commission's activities and report to the commission on the progress of those activities. The executive director shall do all things necessary for the efficient and effective implementation of the duties of the commission.

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

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

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

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

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

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

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

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

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

12411 to 12544, as amended, assist in administering and overseeing the "National and Community Service Trust Act of 1993," P.L. 103-82, 107 Stat. 785, and the americorps program in this state, and assist in developing objectives for a comprehensive strategy to encourage and expand community service programs throughout the state;

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

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

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

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

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

(D) The commission shall in writing enter into an agreement with another state agency to serve as the commission's fiscal agent. Before entering into such an agreement, the commission shall inform the governor of the terms of the agreement and of the state agency designated to serve as the commission's fiscal agent. The fiscal agent shall be responsible for all the commission's fiscal matters and financial transactions, as specified in the agreement. Services to be provided by the fiscal agent include, but are not limited to, the following:

(1) Preparing and processing payroll and other personnel documents that the commission executes as the appointing authority;

(2) Maintaining ledgers of accounts and reports of account balances, and monitoring budgets and allotment plans in consultation with the commission; and

(3) Performing other routine support services that the fiscal agent considers appropriate to achieve efficiency.

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

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

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

(c) Responsibility to cooperate with and inform the fiscal agent fully of all financial transactions.

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

(3) The fiscal agent shall determine fees to be charged to the commission, which shall be in proportion to the services performed for the commission.

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

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

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

(1) "Payroll" means the total taxable income paid by the employer during the employer's taxable year, or during the calendar year that includes the employer's tax period, to each employee or each home-based employee employed in the project to the extent such payroll is not used to determine the credit under section 122.171 of the Revised Code. "Payroll" excludes amounts paid before the day the taxpayer becomes eligible for the credit and retirement or other benefits paid or contributed by the employer to or on behalf of employees.

(2) "Baseline payroll" means Ohio employee payroll, except that the applicable measurement period is the twelve months immediately preceding the date the tax credit authority approves the taxpayer's application or the date the tax credit authority receives the recommendation described in division (C)(2)(a) of this section, whichever occurs first, multiplied by the sum of one plus an annual pay increase factor to be determined by the tax credit authority.

(3) "Ohio employee payroll" means the amount of compensation used to determine the withholding obligations in division (A) of section 5747.06 of the Revised Code and paid by the employer during the employer's taxable year, or during the calendar year that includes the employer's tax period, to the following:

(a) An employee employed in the project who is a resident of this state including a qualifying work-from-home employee not designated as a home-based employee by an applicant under division (C)(1) of this section;

(b) An employee employed at the project location who is not a resident and whose compensation is not exempt from the tax imposed under section 5747.02 of the Revised Code pursuant to a reciprocity agreement with another state under division (A)(3) of section 5747.05 of the Revised Code;

(c) A home-based employee employed in the project.

"Ohio employee payroll" excludes any such compensation to the extent it is used to determine the credit under section 122.171 of the Revised Code, and excludes amounts paid before the day the taxpayer becomes eligible for the credit under this section.

(4) "Excess payroll" means Ohio employee payroll minus baseline payroll.

(5) "Home-based employee" means an employee whose services are performed primarily from the employee's residence in this state exclusively for the benefit of the project and whose rate of pay is at least one hundred thirty-one per cent of the federal minimum wage under 29 U.S.C. 206.

(6) "Full-time equivalent employees" means the quotient obtained by dividing the total



number of hours for which employees were compensated for employment in the project by two thousand eighty. "Full-time equivalent employees" excludes hours that are counted for a credit under section 122.171 of the Revised Code.

(7) "Metric evaluation date" means the date by which the taxpayer must meet all of the commitments included in the agreement.

(8) "Qualifying work-from-home employee" means an employee who is a resident of this state and whose services are supervised from the employer's project location and performed primarily from a residence of the employee located in this state.

(9) "Resident" or "resident of this state" means an individual who is a resident as defined in section 5747.01 of the Revised Code.

(B) The tax credit authority may make grants under this section to foster job creation in this state. Such a grant shall take the form of a refundable credit allowed against the tax imposed by section 5725.18, 5726.02, 5729.03, 5733.06, 5736.02, or 5747.02 or levied under Chapter 5751. of the Revised Code. The credit shall be claimed for the taxable years or tax periods specified in the taxpayer's agreement with the tax credit authority under division (D) of this section. With respect to taxes imposed under section 5726.02, 5733.06, or 5747.02 or Chapter 5751. of the Revised Code, the credit shall be claimed in the order required under section 5726.98, 5733.98, 5747.98, or 5751.98 of the Revised Code. The amount of the credit available for a taxable year or for a calendar year that includes a tax period equals the excess payroll for that year multiplied by the percentage specified in the agreement with the tax credit authority.

(C)(1) A taxpayer or potential taxpayer who proposes a project to create new jobs in this state may apply to the tax credit authority to enter into an agreement for a tax credit under this section.

An application shall not propose to include both home-based employees and employees who are not home-based employees in the computation of Ohio employee payroll for the purposes of the same tax credit agreement, except that a qualifying work-from-home employee shall not be considered to be a home-based employee unless so designated by the applicant. If a taxpayer or potential taxpayer employs both home-based employees and employees who are not home-based employees in a project, the taxpayer shall submit separate applications for separate tax credit agreements for the project, one of which shall include home-based employees in the computation of Ohio employee payroll and one of which shall include all other employees in the computation of Ohio employee payroll.

The director of development services shall prescribe the form of the application. After receipt of an application, the authority may enter into an agreement with the taxpayer for a credit under this section if it determines all of the following:

- (a) The taxpayer's project will increase payroll;
- (b) The taxpayer's project is economically sound and will benefit the people of this state by increasing opportunities for employment and strengthening the economy of this state;
- (c) Receiving the tax credit is a major factor in the taxpayer's decision to go forward with the project.

(2)(a) A taxpayer that chooses to begin the project prior to receiving the determination of the authority may, upon submitting the taxpayer's application to the authority, request that the chief investment officer of the nonprofit corporation formed under section 187.01 of the Revised Code and

the director review the taxpayer's application and recommend to the authority that the taxpayer's application be considered. As soon as possible after receiving such a request, the chief investment officer and the director shall review the taxpayer's application and, if they determine that the application warrants consideration by the authority, make that recommendation to the authority not later than six months after the application is received by the authority.

(b) The authority shall consider any taxpayer's application for which it receives a recommendation under division (C)(2)(a) of this section. If the authority determines that the taxpayer does not meet all of the criteria set forth in division (C)(1) of this section, the authority and the development services agency shall proceed in accordance with rules adopted by the director pursuant to division (I) of this section.

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

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

(2)(a) The term of the tax credit, which, except as provided in division (D)(2)(b) of this section, shall not exceed fifteen years, and the first taxable year, or first calendar year that includes a tax period, for which the credit may be claimed;

(b) If the tax credit is computed on the basis of home-based employees, the term of the credit shall expire on or before the last day of the taxable or calendar year ending before the beginning of the seventh year after September 6, 2012, the effective date of H.B. 327 of the 129th general assembly.

(3) A requirement that the taxpayer shall maintain operations at the project location for at least the greater of seven years or the term of the credit plus three years;

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

(5) The pay increase factor to be applied to the taxpayer's baseline payroll;

(6) A requirement that the taxpayer annually shall report to the director of development services full-time equivalent employees, payroll, Ohio employee payroll, investment, the provision of health care benefits and tuition reimbursement if required in the agreement, and other information the director needs to perform the director's duties under this section;

(7) A requirement that the director of development services annually review the information reported under division (D)(6) of this section and verify compliance with the agreement; if the taxpayer is in compliance, a requirement that the director issue a certificate to the taxpayer stating that the information has been verified and identifying the amount of the credit that may be claimed for the taxable or calendar year;

(8) A provision providing that the taxpayer may not relocate a substantial number of employment positions from elsewhere in this state to the project location unless the director of development services determines that the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated has been notified by the taxpayer of the relocation.

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position unless the employment position in the first political subdivision is replaced. The movement

of a qualifying work-from-home employee to a different residence located in this state or to the project location shall not be considered a relocation of an employment position.

(9) If the tax credit is computed on the basis of home-based employees, that the tax credit may not be claimed by the taxpayer until the taxable year or tax period in which the taxpayer employs at least two hundred employees more than the number of employees the taxpayer employed on June 30, 2011.

(E) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the tax credit. The reduction of the percentage or term may take effect in the current taxable or calendar year.

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

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

(H) A taxpayer claiming a credit under this section shall submit to the tax commissioner or, if the taxpayer is an insurance company, to the superintendent of insurance, a copy of the director of development services' certificate of verification under division (D)(7) of this section with the taxpayer's tax report or return for the taxable year or for the calendar year that includes the tax period. Failure to submit a copy of the certificate with the report or return does not invalidate a claim for a credit if the taxpayer submits a copy of the certificate to the commissioner or superintendent within the time prescribed by section 5703.0510 of the Revised Code or within thirty days after the commissioner or superintendent requests it.

(I) The director of development services, after consultation with the tax commissioner and the superintendent of insurance and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section, including rules that establish a procedure to be followed by the tax credit authority and the development services agency in the event the authority considers a taxpayer's application for which it receives a recommendation under division (C)(2)(a) of this section

but does not approve it. The rules may provide for recipients of tax credits under this section to be charged fees to cover administrative costs of the tax credit program. For the purposes of these rules, a qualifying work-from-home employee shall be considered to be an employee employed at the applicant's project location. The fees collected shall be credited to the tax incentives operating fund created in section 122.174 of the Revised Code. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

(J) For the purposes of this section, a taxpayer may include a partnership, a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code, or any other business entity through which income flows as a distributive share to its owners. A partnership, S-corporation, or other such business entity may elect to pass the credit received under this section through to the persons to whom the income or profit of the partnership, S-corporation, or other entity is distributed. The election shall be made on the annual report required under division (D)(6) of this section. The election applies to and is irrevocable for the credit for which the report is submitted. If the election is made, the credit shall be apportioned among those persons in the same proportions as those in which the income or profit is distributed.

(K)(1) If the director of development services determines that a taxpayer who has received a credit under this section is not complying with the requirements of the agreement, the director shall notify the tax credit authority of the noncompliance. After receiving such a notice, and after giving the taxpayer an opportunity to explain the noncompliance, the tax credit authority may require the taxpayer to refund to this state a portion of the credit in accordance with the following:

(a) If the taxpayer fails to comply with the requirement under division (D)(3) of this section, an amount determined in accordance with the following:

(i) If the taxpayer maintained operations at the project location for a period less than or equal to the term of the credit, an amount not exceeding one hundred per cent of the sum of any credits allowed and received under this section;

(ii) If the taxpayer maintained operations at the project location for a period longer than the term of the credit, but less than the greater of seven years or the term of the credit plus three years, an amount not exceeding seventy-five per cent of the sum of any credits allowed and received under this section.

(b) If, on the metric evaluation date, the taxpayer fails to substantially meet the job creation, payroll, or investment requirements included in the agreement, an amount determined at the discretion of the authority;

(c) If the taxpayer fails to substantially maintain the number of new full-time equivalent employees or amount of payroll required under the agreement at any time during the term of the agreement after the metric evaluation date, an amount determined at the discretion of the authority.

(2) If a taxpayer files for bankruptcy and fails as described in division (K)(1)(a), (b), or (c) of this section, the director may immediately commence an action to recoup an amount not exceeding one hundred per cent of the sum of any credits received by the taxpayer under this section.

(3) In determining the portion of the tax credit to be refunded to this state, the tax credit authority shall consider the effect of market conditions on the taxpayer's project and whether the

taxpayer continues to maintain other operations in this state. After making the determination, the authority shall certify the amount to be refunded to the tax commissioner or superintendent of insurance, as appropriate. If the amount is certified to the commissioner, the commissioner shall make an assessment for that amount against the taxpayer under Chapter 5726., 5733., 5736., 5747., or 5751. of the Revised Code. If the amount is certified to the superintendent, the superintendent shall make an assessment for that amount against the taxpayer under Chapter 5725. or 5729. of the Revised Code. The time limitations on assessments under those chapters do not apply to an assessment under this division, but the commissioner or superintendent, as appropriate, shall make the assessment within one year after the date the authority certifies to the commissioner or superintendent the amount to be refunded.

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

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

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

(N) For purposes of the credits granted by this section against the taxes imposed under sections 5725.18 and 5729.03 of the Revised Code, "taxable year" means the period covered by the taxpayer's annual statement to the superintendent of insurance.

(O) On or before the first day of March of each of the five calendar years beginning with 2014, each taxpayer subject to an agreement with the tax credit authority under this section on the basis of home-based employees shall report the number of home-based employees and other

employees employed by the taxpayer in this state to the development services agency.

(P) On or before the first day of January of 2019, the director of development services shall submit a report to the governor, the president of the senate, and the speaker of the house of representatives on the effect of agreements entered into under this section in which the taxpayer included home-based employees in the computation of income tax revenue, as that term was defined in this section prior to the amendment of this section by H.B. 64 of the 131st general assembly. The report shall include information on the number of such agreements that were entered into in the preceding six years, a description of the projects that were the subjects of such agreements, and an analysis of nationwide home-based employment trends, including the number of home-based jobs created from July 1, 2011, through June 30, 2017, and a description of any home-based employment tax incentives provided by other states during that time.

(Q) The director of development services may require any agreement entered into under this section for a tax credit computed on the basis of home-based employees to contain a provision that the taxpayer makes available health care benefits and tuition reimbursement to all employees.

(R) Original agreements approved by the tax credit authority under this section in 2014 or 2015 before September 29, 2015, may be revised at the request of the taxpayer to conform with the amendments to this section and sections 5733.0610, 5736.50, 5747.058, and 5751.50 of the Revised Code by H.B. 64 of the 131st general assembly, upon mutual agreement of the taxpayer and the development services agency, and approval by the tax credit authority.

(S)(1) As used in division (S) of this section:

(a) "Eligible agreement" means an agreement approved by the tax credit authority under this section on or before December 31, 2013.

(b) "Reporting period" means a period corresponding to the annual report required under division (D)(6) of this section.

(c) "Income tax revenue" has the same meaning as under this section as it existed before September 29, 2015, the effective date of the amendment of this section by H.B. 64 of the 131st general assembly.

(2) In calendar year 2016 and thereafter, the tax credit authority shall annually determine a withholding adjustment factor to be used in the computation of income tax revenue for eligible agreements. The withholding adjustment factor shall be a numerical percentage that equals the percentage that employer income tax withholding rates have been increased or decreased as a result of changes in the income tax rates prescribed by section 5747.02 of the Revised Code by amendment of that section taking effect on or after June 29, 2013.

(3) Except as provided in division (S)(4) of this section, for reporting periods ending in 2015 and thereafter for taxpayers subject to eligible agreements, the tax credit authority shall adjust the income tax revenue reported on the taxpayer's annual report by multiplying the withholding adjustment factor by the taxpayer's income tax revenue and doing one of the following:

(a) If the income tax rates prescribed by section 5747.02 of the Revised Code have decreased by amendment of that section taking effect on or after June 29, 2013, add the product to the taxpayer's income tax revenue.

(b) If the income tax rates prescribed by section 5747.02 of the Revised Code have increased by amendment of that section taking effect on or after June 29, 2013, subtract the product from the

taxpayer's income tax revenue.

(4) Division (S)(3) of this section shall not apply unless all of the following apply for the reporting period with respect to the eligible agreement:

(a) The taxpayer has achieved one hundred per cent of the new employment commitment identified in the agreement.

(b) If applicable, the taxpayer has achieved one hundred per cent of the new payroll commitment identified in the agreement.

(c) If applicable, the taxpayer has achieved one hundred per cent of the investment commitment identified in the agreement.

(5) Failure by a taxpayer to have achieved any of the applicable commitments described in divisions (S)(4)(a) to (c) of this section in a reporting period does not disqualify the taxpayer for the adjustment under division (S) of this section for an ensuing reporting period.

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

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

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

(b) Project costs paid before January 1, 2002;

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

(2) "Eligible business" means a taxpayer and its related members with Ohio operations satisfying all of the following:

(a) The taxpayer employs at least five hundred full-time equivalent employees or has an annual Ohio employee payroll of at least thirty-five million dollars at the time the tax credit authority grants the tax credit under this section;

(b) The taxpayer makes or causes to be made payments for the capital investment project of one of the following:

(i) If the taxpayer is engaged at the project site primarily as a manufacturer, at least fifty million dollars in the aggregate at the project site during a period of three consecutive calendar years, including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted;

(ii) If the taxpayer is engaged at the project site primarily in significant corporate administrative functions, as defined by the director of development services by rule, at least twenty million dollars in the aggregate at the project site during a period of three consecutive calendar years including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted.

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

(3) "Full-time equivalent employees" means the quotient obtained by dividing the total number of hours for which employees were compensated for employment in the project by two

thousand eighty. "Full-time equivalent employees" shall exclude hours that are counted for a credit under section 122.17 of the Revised Code.

(4) "Ohio employee payroll" has the same meaning as in section 122.17 of the Revised Code.

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

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

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

(8) "Taxable year" includes, in the case of a domestic or foreign insurance company, the calendar year ending on the thirty-first day of December preceding the day the superintendent of insurance is required to certify to the treasurer of state under section 5725.20 or 5729.05 of the Revised Code the amount of taxes due from insurance companies.

(B) The tax credit authority created under section 122.17 of the Revised Code may grant a nonrefundable tax credit to an eligible business under this section for the purpose of fostering job retention in this state. Upon application by an eligible business and upon consideration of the determination of the director of budget and management, tax commissioner, and the superintendent of insurance in the case of an insurance company, and the recommendation and determination of the director of development services under division (C) of this section, the tax credit authority may grant the credit against the tax imposed by section 5725.18, 5726.02, 5729.03, 5733.06, 5736.02, 5747.02, or 5751.02 of the Revised Code.

The credit authorized in this section may be granted for a period up to fifteen taxable years or, in the case of the tax levied by section 5736.02 or 5751.02 of the Revised Code, for a period of up to fifteen calendar years. The credit amount for a taxable year or a calendar year that includes the tax period for which a credit may be claimed equals the Ohio employee payroll for that year multiplied by the percentage specified in the agreement with the tax credit authority. The credit shall be claimed in the order required under section 5725.98, 5726.98, 5729.98, 5733.98, 5747.98, or 5751.98 of the Revised Code. In determining the percentage and term of the credit, the tax credit authority shall consider both the number of full-time equivalent employees and the value of the capital investment project. The credit amount may not be based on the Ohio employee payroll for a calendar year before the calendar year in which the tax credit authority specifies the tax credit is to begin, and the credit shall be claimed only for the taxable years or tax periods specified in the eligible business' agreement with the tax credit authority. In no event shall the credit be claimed for a taxable year or tax period terminating before the date specified in the agreement.

If a credit allowed under this section for a taxable year or tax period exceeds the taxpayer's tax liability for that year or period, the excess may be carried forward for the three succeeding taxable or calendar years, but the amount of any excess credit allowed in any taxable year or tax period shall be deducted from the balance carried forward to the succeeding year or period.

(C) A taxpayer that proposes a capital investment project to retain jobs in this state may apply to the tax credit authority to enter into an agreement for a tax credit under this section. The director of development services shall prescribe the form of the application. After receipt of an application, the



authority shall forward copies of the application to the director of budget and management, the tax commissioner, and the superintendent of insurance in the case of an insurance company, each of whom shall review the application to determine the economic impact the proposed project would have on the state and the affected political subdivisions and shall submit a summary of their determinations to the authority. The authority shall also forward a copy of the application to the director of development services, who shall review the application to determine the economic impact the proposed project would have on the state and the affected political subdivisions and shall submit a summary of the director's determinations and recommendations to the authority.

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

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

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

(3) The taxpayer intends to and has the ability to maintain operations at the project site for at least the greater of (a) the term of the credit plus three years, or (b) seven years.

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

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

(1) A detailed description of the project that is the subject of the agreement, including the amount of the investment, the period over which the investment has been or is being made, the number of full-time equivalent employees at the project site, and the anticipated Ohio employee payroll to be generated.

(2) The term of the credit, the percentage of the tax credit, the maximum annual value of tax credits that may be allowed each year, and the first year for which the credit may be claimed.

(3) A requirement that the taxpayer maintain operations at the project site for at least the greater of (a) the term of the credit plus three years, or (b) seven years.

(4) A requirement that the taxpayer retain at least five hundred full-time equivalent employees at the project site and within this state for the entire term of the credit, or a requirement that the taxpayer maintain an annual Ohio employee payroll of at least thirty-five million dollars for the entire term of the credit.

(5) A requirement that the taxpayer annually report to the director of development services full-time equivalent employees, Ohio employee payroll, capital investment, and other information the director needs to perform the director's duties under this section.

(6) A requirement that the director of development services annually review the annual reports of the taxpayer to verify the information reported under division (E)(5) of this section and compliance with the agreement. Upon verification, the director shall issue a certificate to the taxpayer stating that the information has been verified and identifying the amount of the credit for the taxable year or calendar year that includes the tax period. In determining the number of full-time equivalent employees, no position shall be counted that is filled by an employee who is included in the calculation of a tax credit under section 122.17 of the Revised Code.

(7) A provision providing that the taxpayer may not relocate a substantial number of employment positions from elsewhere in this state to the project site unless the director of development services determines that the taxpayer notified the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated.

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position unless the movement is confined to the project site. The transfer of an employment position from one political subdivision to another political subdivision shall not be considered a relocation of an employment position if the employment position in the first political subdivision is replaced by another employment position.

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

(F) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the credit. The reduction of the percentage or term may take effect in the current taxable or calendar year.

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

(H) A taxpayer claiming a tax credit under this section shall submit to the tax commissioner or, in the case of an insurance company, to the superintendent of insurance, a copy of the director of development services' certificate of verification under division (E)(6) of this section with the taxpayer's tax report or return for the taxable year or for the calendar year that includes the tax period. Failure to submit a copy of the certificate with the report or return does not invalidate a claim for a credit if the taxpayer submits a copy of the certificate to the commissioner or superintendent within the time prescribed by section 5703.0510 of the Revised Code or within thirty days after the commissioner or superintendent requests it.

(I) For the purposes of this section, a taxpayer may include a partnership, a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code, or any other business entity through which income flows as a distributive share to its owners. A partnership, S-corporation, or other such business entity may elect to pass the credit received under this section through to the persons to whom the income or profit of the partnership, S-corporation, or other entity is distributed. The election shall be made on the annual report required under division (E) (5) of this section. The election applies to and is irrevocable for the credit for which the report is

submitted. If the election is made, the credit shall be apportioned among those persons in the same proportions as those in which the income or profit is distributed.

(J)(1) If the director of development services determines that a taxpayer that received a certificate under division (E)(6) of this section is not complying with the requirements of the agreement, the director shall notify the tax credit authority of the noncompliance. After receiving such a notice, and after giving the taxpayer an opportunity to explain the noncompliance, the authority may terminate the agreement and require the taxpayer, or any related member or members that claimed the tax credit under division (N) of this section, to refund to the state all or a portion of the credit claimed in previous years, as follows:

(a) If the taxpayer fails to comply with the requirement under division (E)(3) of this section, an amount determined in accordance with the following:

(i) If the taxpayer maintained operations at the project site for less than or equal to the term of the credit, an amount not to exceed one hundred per cent of the sum of any tax credits allowed and received under this section.

(ii) If the taxpayer maintained operations at the project site longer than the term of the credit, but less than the greater of seven years or the term of the credit plus three years, the amount required to be refunded shall not exceed seventy-five per cent of the sum of any tax credits allowed and received under this section.

(b) If the taxpayer fails to substantially maintain both the number of full-time equivalent employees and the amount of Ohio employee payroll required under the agreement at any time during the term of the agreement or during the post-term reporting period, an amount determined at the discretion of the authority.

(2) If a taxpayer files for bankruptcy and fails as described in division (J)(1)(a) or (b) of this section, the director may immediately commence an action to recoup an amount not exceeding one hundred per cent of the sum of any credits received by the taxpayer under this section.

(3) In determining the portion of the credit to be refunded to this state, the authority shall consider the effect of market conditions on the taxpayer's project and whether the taxpayer continues to maintain other operations in this state. After making the determination, the authority shall certify the amount to be refunded to the tax commissioner or the superintendent of insurance. If the taxpayer, or any related member or members who claimed the tax credit under division (N) of this section, is not an insurance company, the commissioner shall make an assessment for that amount against the taxpayer under Chapter 5726., 5733., 5736., 5747., or 5751. of the Revised Code. If the taxpayer, or any related member or members that claimed the tax credit under division (N) of this section, is an insurance company, the superintendent of insurance shall make an assessment under section 5725.222 or 5729.102 of the Revised Code. The time limitations on assessments under those chapters and sections do not apply to an assessment under this division, but the commissioner or superintendent shall make the assessment within one year after the date the authority certifies to the commissioner or superintendent the amount to be refunded.

(K) The director of development services, after consultation with the tax commissioner and the superintendent of insurance and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section. The rules may provide for recipients of tax credits under this section to be charged fees to cover administrative costs of the tax credit program. The fees

collected shall be credited to the tax incentives operating fund created in section 122.174 of the Revised Code. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

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

(M) The aggregate amount of nonrefundable tax credits issued under this section during any calendar year for capital investment projects reviewed and approved by the tax credit authority may not exceed the following amounts:

- (1) For 2010, thirteen million dollars;
- (2) For 2011 through 2023, the amount of the limit for the preceding calendar year plus thirteen million dollars;
- (3) For 2024 and each year thereafter, one hundred ninety-five million dollars.

The limitations in division (M) of this section do not apply to credits for capital investment projects approved by the tax credit authority before July 1, 2009.

(N) This division applies only to an eligible business that is part of an affiliated group that includes a diversified savings and loan holding company or a grandfathered unitary savings and loan holding company, as those terms are defined in section 5726.01 of the Revised Code. Notwithstanding any contrary provision of the agreement between such an eligible business and the tax credit authority, any credit granted under this section against the tax imposed by section 5725.18, 5729.03, 5733.06, 5747.02, or 5751.02 of the Revised Code to the eligible business, at the election of the eligible business and without any action by the tax credit authority, may be shared with any member or members of the affiliated group that includes the eligible business, which member or members may claim the credit against the taxes imposed by section 5725.18, 5726.02, 5729.03, 5733.06, 5747.02, or 5751.02 of the Revised Code. Credits shall be claimed by the eligible business in sequential order, as applicable, first claiming the credits to the fullest extent possible against the tax that the certificate holder is subject to, then against the tax imposed by, sequentially, section 5729.03, 5725.18, 5747.02, 5751.02, and lastly 5726.02 of the Revised Code. The credits may be allocated among the members of the affiliated group in such manner as the eligible business elects, but subject to the sequential order required under this division. This division applies to credits granted before, on, or after March 27, 2013, the effective date of H.B. 510 of the 129th general assembly. Credits granted before that effective date that are shared and allocated under this division may be claimed in those calendar years in which the remaining taxable years specified in the agreement end.

As used in this division, "affiliated group" means a group of two or more persons with fifty per cent or greater of the value of each person's ownership interests owned or controlled directly, indirectly, or constructively through related interests by common owners during all or any portion of

the taxable year, and the common owners. "Affiliated group" includes, but is not limited to, any person eligible to be included in a consolidated elected taxpayer group under section 5751.011 of the Revised Code or a combined taxpayer group under section 5751.012 of the Revised Code.

(O)(1) As used in division (O) of this section:

(a) "Eligible agreement" means an agreement approved by the tax credit authority under this section on or before December 31, 2013.

(b) "Reporting period" means a period corresponding to the annual report required under division (E)(5) of this section.

(c) "Income tax revenue" has the same meaning as under division (S) of section 122.17 of the Revised Code.

(2) In calendar year 2016 and thereafter, the tax credit authority shall annually determine a withholding adjustment factor to be used in the computation of income tax revenue for eligible agreements. The withholding adjustment factor shall be a numerical percentage that equals the percentage that employer income tax withholding rates have been increased or decreased as a result of changes in the income tax rates prescribed by section 5747.02 of the Revised Code by amendment of that section taking effect on or after June 29, 2013.

(3) Except as provided in division (O)(4) of this section, for reporting periods ending in 2015 and thereafter for taxpayers subject to eligible agreements, the tax credit authority shall adjust the income tax revenue reported on the taxpayer's annual report by multiplying the withholding adjustment factor by the taxpayer's income tax revenue and doing one of the following:

(a) If the income tax rates prescribed by section 5747.02 of the Revised Code have decreased by amendment of this section taking effect on or after June 29, 2013, add the product to the taxpayer's income tax revenue.

(b) If the income tax rates prescribed by section 5747.02 of the Revised Code have increased by amendment of this section taking effect on or after June 29, 2013, subtract the product from the taxpayer's income tax revenue.

(4) Division (O)(3) of this section shall not apply unless all of the following apply with respect to the eligible agreement:

(a) The taxpayer has achieved one hundred per cent of the job retention commitment identified in the agreement.

(b) If applicable, the taxpayer has achieved one hundred per cent of the payroll retention commitment identified in the agreement.

(c) If applicable, the taxpayer has achieved one hundred per cent of the investment commitment identified in the agreement.

(5) Failure by a taxpayer to have achieved any of the applicable commitments described in divisions (O)(4)(a) to (c) of this section in a reporting period does not disqualify the taxpayer for the adjustment under division (O) of this section for an ensuing reporting period.

**Sec. 122.174.** There is hereby created in the state treasury the tax incentives operating fund. The fund shall consist of any amounts appropriated to it and money credited to the fund pursuant to section 122.151, 122.154, 122.17, 122.171, 122.175, 122.85, 122.86, 3735.672, 5709.68, or 5725.33 of the Revised Code. The director of development services shall use money in the fund to pay expenses related to the administration of (A) the business services division of the development

services agency and (B) the programs described in those sections.

**Sec. 122.175.** (A) As used in this section:

(1) "Capital investment project" means a plan of investment at a project site for the acquisition, construction, renovation, expansion, replacement, or repair of a computer data center or of computer data center equipment, but does not include any of the following:

(a) Project costs paid before a date determined by the tax credit authority for each capital investment project;

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

(2) "Computer data center" means a facility used or to be used primarily to house computer data center equipment used or to be used in conducting one or more computer data center businesses, as determined by the tax credit authority.

(3) "Computer data center business" means, as may be further determined by the tax credit authority, a business that provides electronic information services as defined in division (Y)(1)(c) of section 5739.01 of the Revised Code, or that leases a facility to one or more such businesses. "Computer data center business" does not include providing electronic publishing as defined in division (LLL) of that section.

(4) "Computer data center equipment" means tangible personal property used or to be used for any of the following:

(a) To conduct a computer data center business, including equipment cooling systems to manage the performance of computer data center equipment;

(b) To generate, transform, transmit, distribute, or manage electricity necessary to operate the tangible personal property used or to be used in conducting a computer data center business;

(c) As building and construction materials sold to construction contractors for incorporation into a computer data center.

(5) "Eligible computer data center" means a computer data center that satisfies all of the following requirements:

(a) One or more taxpayers operating a computer data center business at the project site will, in the aggregate, make payments for a capital investment project of at least one hundred million dollars at the project site during one of the following cumulative periods:

(i) For projects beginning in 2013, six consecutive calendar years;

(ii) For projects beginning in 2014, four consecutive calendar years;

(iii) For projects beginning in or after 2015, three consecutive calendar years.

(b) One or more taxpayers operating a computer data center business at the project site will, in the aggregate, pay annual compensation that is subject to the withholding obligation imposed under section 5747.06 of the Revised Code of at least one million five hundred thousand dollars to employees employed at the project site for each year of the agreement beginning on or after the first day of the twenty-fifth month after the agreement was entered into under this section.

(6) "Person" has the same meaning as in section 5701.01 of the Revised Code.

(7) "Project site," "related member," and "tax credit authority" have the same meanings as in sections 122.17 and 122.171 of the Revised Code.

(8) "Taxpayer" means any person subject to the taxes imposed under Chapters 5739. and 5741. of the Revised Code.

(B) The tax credit authority may completely or partially exempt from the taxes levied under Chapters 5739. and 5741. of the Revised Code the sale, storage, use, or other consumption of computer data center equipment used or to be used at an eligible computer data center. Any such exemption shall extend to charges for the delivery, installation, or repair of the computer data center equipment subject to the exemption under this section.

(C) A taxpayer that proposes a capital improvement project for an eligible computer data center in this state may apply to the tax credit authority to enter into an agreement under this section authorizing a complete or partial exemption from the taxes imposed under Chapters 5739. and 5741. of the Revised Code on computer data center equipment purchased by the applicant or any other taxpayer that operates a computer data center business at the project site and used or to be used at the eligible computer data center. The director of development services shall prescribe the form of the application. After receipt of an application, the authority shall forward copies of the application to the director of budget and management and the tax commissioner, each of whom shall review the application to determine the economic impact that the proposed eligible computer data center would have on the state and any affected political subdivisions and submit to the authority a summary of their determinations. The authority shall also forward a copy of the application to the director of development services who shall review the application to determine the economic impact that the proposed eligible computer data center would have on the state and the affected political subdivisions and shall submit a summary of their determinations and recommendations to the authority.

(D) Upon review and consideration of such determinations and recommendations, the tax credit authority may enter into an agreement with the applicant and any other taxpayer that operates a computer data center business at the project site for a complete or partial exemption from the taxes imposed under Chapters 5739. and 5741. of the Revised Code on computer data center equipment used or to be used at an eligible computer data center if the authority determines all of the following:

(1) The capital investment project for the eligible computer data center will increase payroll and the amount of income taxes to be withheld from employee compensation pursuant to section 5747.06 of the Revised Code.

(2) The applicant is economically sound and has the ability to complete or effect the completion of the proposed capital investment project.

(3) The applicant intends to and has the ability to maintain operations at the project site for the term of the agreement.

(4) Receiving the exemption is a major factor in the applicant's decision to begin, continue with, or complete the capital investment project.

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

(1) A detailed description of the capital investment project that is the subject of the agreement, including the amount of the investment, the period over which the investment has been or is being made, the annual compensation to be paid by each taxpayer subject to the agreement to its employees at the project site, and the anticipated amount of income taxes to be withheld from employee compensation pursuant to section 5747.06 of the Revised Code.

(2) The percentage of the exemption from the taxes imposed under Chapters 5739. and 5741.

of the Revised Code for the computer data center equipment used or to be used at the eligible computer data center, the length of time the computer data center equipment will be exempted, and the first date on which the exemption applies.

(3) A requirement that the computer data center remain an eligible computer data center during the term of the agreement and that the applicant maintain operations at the eligible computer data center during that term. An applicant does not violate the requirement described in division (E)(3) of this section if the applicant ceases operations at the eligible computer data center during the term of the agreement but resumes those operations within eighteen months after the date of cessation. The agreement shall provide that, in such a case, the applicant and any other taxpayer that operates a computer data center business at the project site shall not claim the tax exemption authorized in the agreement for any purchase of computer data center equipment made during the period in which the applicant did not maintain operations at the eligible computer data center.

(4) A requirement that, for each year of the term of the agreement beginning on or after the first day of the twenty-fifth month after the date the agreement was entered into, one or more taxpayers operating a computer data center business at the project site will, in the aggregate, pay annual compensation that is subject to the withholding obligation imposed under section 5747.06 of the Revised Code of at least one million five hundred thousand dollars to employees at the eligible computer data center.

(5) A requirement that each taxpayer subject to the agreement annually report to the director of development services employment, tax withholding, capital investment, and other information required by the director to perform the director's duties under this section.

(6) A requirement that the director of development services annually review the annual reports of each taxpayer subject to the agreement to verify the information reported under division (E)(5) of this section and compliance with the agreement. Upon verification, the director shall issue a certificate to each such taxpayer stating that the information has been verified and that the taxpayer remains eligible for the exemption specified in the agreement.

(7) A provision providing that the taxpayers subject to the agreement may not relocate a substantial number of employment positions from elsewhere in this state to the project site unless the director of development services determines that the appropriate taxpayer notified the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated. For purposes of this paragraph, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position unless the movement is confined to the project site. The transfer of an employment position from one political subdivision to another political subdivision shall not be considered a relocation of an employment position if the employment position in the first political subdivision is replaced by another employment position.

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

(F) The term of an agreement under this section shall be determined by the tax credit authority, and the amount of the exemption shall not exceed one hundred per cent of such taxes that would otherwise be owed in respect to the exempted computer data center equipment.

(G) If any taxpayer subject to an agreement under this section fails to meet or comply with



any condition or requirement set forth in the agreement, the tax credit authority may amend the agreement to reduce the percentage of the exemption or term during which the exemption applies to the computer data center equipment used or to be used by the noncompliant taxpayer at an eligible computer data center. The reduction of the percentage or term may take effect in the current calendar year.

(H) Financial statements and other information submitted to the department of development services or the tax credit authority by an applicant for or recipient of an exemption under this section, and any information taken for any purpose from such statements or information, are not public records subject to section 149.43 of the Revised Code. However, the chairperson of the authority may make use of the statements and other information for purposes of issuing public reports or in connection with court proceedings concerning tax exemption agreements under this section. Upon the request of the tax commissioner, the chairperson of the authority shall provide to the tax commissioner any statement or other information submitted by an applicant for or recipient of an exemption under this section. The tax commissioner shall preserve the confidentiality of the statement or other information.

(I) The tax commissioner shall issue a direct payment permit under section 5739.031 of the Revised Code to each taxpayer subject to an agreement under this section. Such direct payment permit shall authorize the taxpayer to pay any sales and use taxes due on purchases of computer data center equipment used or to be used in an eligible computer data center and to pay any sales and use taxes due on purchases of tangible personal property or taxable services other than computer data center equipment used or to be used in an eligible computer data center directly to the tax commissioner. Each such taxpayer shall pay pursuant to such direct payment permit all sales tax levied on such purchases under sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code and all use tax levied on such purchases under sections 5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code, consistent with the terms of the agreement entered into under this section.

During the term of an agreement under this section each taxpayer subject to the agreement shall submit to the tax commissioner a return that shows the amount of computer data center equipment purchased for use at the eligible computer data center, the amount of tangible personal property and taxable services other than computer data center equipment purchased for use at the eligible computer data center, the amount of tax under Chapter 5739. or 5741. of the Revised Code that would be due in the absence of the agreement under this section, the exemption percentage for computer data center equipment specified in the agreement, and the amount of tax due under Chapter 5739. or 5741. of the Revised Code as a result of the agreement under this section. Each such taxpayer shall pay the tax shown on the return to be due in the manner and at the times as may be further prescribed by the tax commissioner. Each such taxpayer shall include a copy of the director of development services' certificate of verification issued under division (E)(6) of this section. Failure to submit a copy of the certificate with the return does not invalidate the claim for exemption if the taxpayer submits a copy of the certificate to the tax commissioner within the time prescribed by section 5703.0510 of the Revised Code.

(J) If the director of development services determines that one or more taxpayers received an exemption from taxes due on the purchase of computer data center equipment purchased for use at a

computer data center that no longer complies with the requirement under division (E)(3) of this section, the director shall notify the tax credit authority and, if applicable, the taxpayer that applied to enter the agreement for the exemption under division (C) of this section of the noncompliance. After receiving such a notice, and after giving each taxpayer subject to the agreement an opportunity to explain the noncompliance, the authority may terminate the agreement and require each such taxpayer to pay to the state all or a portion of the taxes that would have been owed in regards to the exempt equipment in previous years, all as determined under rules adopted pursuant to division (K) of this section. In determining the portion of the taxes that would have been owed on the previously exempted equipment to be paid to this state by a taxpayer, the authority shall consider the effect of market conditions on the eligible computer data center, whether the taxpayer continues to maintain other operations in this state, and, with respect to agreements involving multiple taxpayers, the taxpayer's level of responsibility for the noncompliance. After making the determination, the authority shall certify to the tax commissioner the amount to be paid by each taxpayer subject to the agreement. The tax commissioner shall make an assessment for that amount against each such taxpayer under Chapter 5739. or 5741. of the Revised Code. The time limitations on assessments under those chapters do not apply to an assessment under this division, but the tax commissioner shall make the assessment within one year after the date the authority certifies to the tax commissioner the amount to be paid by the taxpayer.

(K) The director of development services, after consultation with the tax commissioner and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section. The rules may provide for recipients of tax exemptions under this section to be charged fees to cover administrative costs incurred in the administration of this section. The fees collected shall be credited to the tax incentives operating fund created in section 122.174 of the Revised Code. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

(L) On or before the first day of August of each year, the director of development services shall submit a report to the governor, the president of the senate, and the speaker of the house of representatives on the tax exemption authorized under this section. The report shall include information on the number of agreements that were entered into under this section during the preceding calendar year, a description of the eligible computer data center that is the subject of each such agreement, and an update on the status of eligible computer data centers under agreements entered into before the preceding calendar year.

(M) A taxpayer may be made a party to an existing agreement entered into under this section by the tax credit authority and another taxpayer or group of taxpayers. In such a case, the taxpayer shall be entitled to all benefits and bound by all obligations contained in the agreement and all requirements described in this section. When an agreement includes multiple taxpayers, each taxpayer shall be entitled to a direct payment permit as authorized in division (I) of this section.

**Sec. 122.177.** (A) As used in this section:

(1) "Business" means a sole proprietorship, a corporation for profit, or a pass-through entity as defined in section 5733.04 of the Revised Code.

(2) "Career exploration internship" means a paid employment relationship between a student

intern and a business in which the student intern acquires education, instruction, and experience relevant to the student intern's career aspirations.

(3) "Student intern" means an individual who, at the time the business applies for a grant under division (B) of this section, meets both of the following criteria:

(a) The individual is entitled to attend school in this state.

(b) The individual is either between sixteen and eighteen years of age or is enrolled in grade eleven or twelve.

(B) There is hereby created in the development services agency the career exploration internship program to award grants to businesses that employ a student intern in a career exploration internship. To qualify for a grant under the program, the career exploration internship shall be at least twenty weeks in duration and include at least two hundred hours of paid work and instruction in this state. To obtain a grant, the business shall apply to the development services agency before the starting date of the career exploration internship. The application shall include all of the following:

(1) A brief description of the career exploration internship;

(2) A signed statement by the student intern briefly describing the student intern's career aspirations and how the student intern believes this career exploration internship may help achieve those aspirations;

(3) A signed statement by a principal or guidance counselor at the student intern's school or, in the case of a home schooled student, an individual responsible for administering instruction to the student intern, acknowledging that the employment opportunity qualifies as a career exploration internship and expressing intent to advise the student intern as provided in division (E) of this section;

(4) The name, address, and telephone number of the business;

(5) Any other information required by the development services agency.

(C)(1) The development services agency shall review and make a determination with respect to each application submitted under division (B) of this section in the order in which the application is received. The agency shall not approve any application under this section that is received by the agency later than June 25, 2017, or that was submitted by a business that does not have substantial operations in this state. The agency may not otherwise deny an application unless the application is incomplete, the proposed employment relationship does not qualify as a career exploration internship for which a grant may be awarded under this section, the business is ineligible to receive a grant under division (D)(1) of this section, or the agency determines that approving the application would cause the amount that could be awarded to exceed the amount of money in the career exploration internship fund.

(2) The agency shall send written notice of its determination to the applicant within thirty days after receiving the application. If the agency determines that the application shall not be approved, the notice shall include the reasons for such determination.

(3) The agency's determination is final and may not be appealed for any reason. A business may submit a new or amended application under division (B) of this section at any time before or after receiving notice under division (C)(2) of this section.

(D)(1) In any calendar year, the development services agency shall not award grants under this section to any business that has received grants for three career exploration internships in that

calendar year. The agency shall not award a grant to a business unless the agency receives a report from the business within thirty days after the end of the career exploration internship or thirteen months after the approval of the application, whichever comes first, that includes all of the following:

- (a) The date the student intern began the internship;
- (b) The date the internship ended or a statement that the student will continue to be employed by the business;
- (c) The total number of hours during the internship that the student intern was employed by the business;
- (d) The total wages paid by the business to the student intern during the internship;
- (e) A signed statement by the student intern briefly describing the duties performed during the internship and the skills and experiences gained throughout the internship;
- (f) Any other information required by the agency.

(2) If the agency receives the report and determines that it contains all of the information and the statement required by division (D)(1) of this section and that the career exploration internship described in the report complies with all the provisions of this section, the agency shall award a grant to the business. The amount of the grant shall equal the lesser of the following:

- (a) Fifty per cent of the wages paid by the business to the student intern for the first twelve months following the date the application was approved;
- (b) Five thousand dollars.

(E) The student intern and the principal, guidance counselor, or other qualified individual who signed the statement described in division (B)(3) of this section shall meet at least once in the thirty days following the end of the career exploration internship or in the thirteenth month following the start of the career exploration internship, whichever comes first. The purpose of the meeting is to discuss the student intern's experiences during the career exploration internship, consider the practical applications of these experiences to the student intern's career aspirations, and to establish or confirm goals for the student intern. If practicable, the meeting shall be in person. Otherwise, the meeting may be conducted over the telephone.

(F) A business that receives a grant under this section may submit a new application under division (B) of this section for another career exploration internship with the same student intern. Such an application does not have to include the statements otherwise required by divisions (B)(2) and (3) of this section.

(G) Annually, on the first day of August until August 2017, the development services agency shall compile a report indicating the number of career exploration internships approved by the agency under this section, the statements issued by the student interns under divisions (B)(2) and (D)(1)(e) of this section, the number of student interns that continued employment with the business after the termination of the career exploration internship, and the total amount of grants awarded under this section. The report shall not disclose any student interns' personally identifiable information. The agency shall provide copies of the report to the governor, the speaker and minority leader of the house of representatives, and the president and minority leader of the senate.

(H) The development services agency may adopt rules necessary to administer this section in accordance with Chapter 119. of the Revised Code.

(I) The career exploration internship fund is hereby created in the state treasury. The fund

shall consist of a portion of the proceeds from the upfront license fees paid for the casino facilities authorized under Section 6(C) of Article XV, Ohio Constitution. Money in the fund shall be used by the development services agency to provide grants under this section.

**Sec. 122.64.** (A) There is hereby established in the development services agency a business services division. The division shall be supervised by a deputy director appointed by the director of development services.

The division is responsible for the administration of the state economic development financing programs established pursuant to sections 122.17 and 122.18, sections 122.39 and 122.41 to 122.62, and Chapter 166. of the Revised Code.

(B) The director of development services shall:

(1) Receive applications for assistance pursuant to sections 122.39 and 122.41 to 122.62 and Chapter 166. of the Revised Code. The director shall process the applications.

(2) With the approval of the director of administrative services, establish salary schedules for employees of the various positions of employment with the division and assign the various positions to those salary schedules;

(3) Employ and fix the compensation of financial consultants, appraisers, consulting engineers, superintendents, managers, construction and accounting experts, attorneys, and other agents for the assistance programs authorized pursuant to sections 122.17 and 122.18, sections 122.39 and 122.41 to 122.62, and Chapter 166. of the Revised Code as are necessary;

(4) Supervise the administrative operations of the division;

(5) On or before the first day of October in each year, make an annual report of the activities and operations under assistance programs authorized pursuant to sections 122.39 and 122.41 to 122.62 and Chapter 166. of the Revised Code for the preceding fiscal year to the governor and the general assembly. Each such report shall set forth a complete operating and financial statement covering such activities and operations during the year in accordance with generally accepted accounting principles and shall be audited by a certified public accountant. The director of development services shall transmit a copy of the audited financial report to the office of budget and management.

**Sec. 122.641.**

**Sec. 122.68.** The community services division shall:

(A) Administer all federal funds appropriated to the state from the "Community Services Block Grant Act," 95 Stat. 511, 42 U.S.C.A. 9901, and comply with requirements imposed by that act in its application for, and administration of, the funds;

(B) Designate community action agencies to receive community services block grant funds;

(C)(1) Subject to division (C)(2) of this section, disburse at least ninety-one per cent of the funds received in the state from the "Community Services Block Grant Act" to community action agencies that comply with the requirements of section 122.69 of the Revised Code and migrant and seasonal farm worker organizations that are not designated community action agencies but which provide the services described in division (B)(1) of section 122.69 of the Revised Code;

(2) Disburse at least four and one-half per cent of the funds received in the state from the "Community Services Block Grant Act" to one or more nonprofit organizations to which both of the following apply:

(a) The organization or organizations were incorporated under the laws of this state before January 1, 2015.

(b) The primary purpose of the organization or organizations is to provide training and technical assistance to community action agencies that comply with the requirements of section 122.69 of the Revised Code.

(D) Provide technical assistance to community action agencies to improve program planning, development, and administration;

(E) Conduct yearly performance assessments, according to criteria determined by development services agency rule, to determine whether community action agencies are in compliance with section 122.69 of the Revised Code;

(F) Annually prepare and submit to the United States secretary of health and human services, the governor, the president of the Ohio senate, and the speaker of the Ohio house of representatives, a comprehensive report that includes:

(1) Certification that all community action agencies designated to receive funds from the "Community Services Block Grant Act" are in compliance with section 122.69 of the Revised Code;

(2) A program plan for the next federal fiscal year that has been made available for public inspection and that details how community services block grant funds will be disbursed and used during that fiscal year;

(3) Information detailing how funds were expended for the current fiscal year;

(4) An audit of community services block grant expenditures for the preceding federal fiscal year that is conducted in accordance with generally accepted accounting principles by an independent auditing firm that has no connection with any community action agency receiving community services block grant funds or with any employee of the division.

(G) Serve as a statewide advocate for social and economic opportunities for low-income persons.

**Sec. 122.85.** (A) As used in this section and in sections 5726.55, 5733.59, 5747.66, and 5751.54 of the Revised Code:

(1) "Tax credit-eligible production" means a motion picture production certified by the director of development services under division (B) of this section as qualifying the motion picture company for a tax credit under section 5726.55, 5733.59, 5747.66, or 5751.54 of the Revised Code.

(2) "Certificate owner" means a motion picture company to which a tax credit certificate is issued or a person to which the company has transferred under division (H) of this section the authority to claim all or a part of the tax credit authorized by that certificate.

(3) "Motion picture company" means an individual, corporation, partnership, limited liability company, or other form of business association producing a motion picture.

(4) "Eligible production expenditures" means expenditures made after June 30, 2009, for goods or services purchased and consumed in this state by a motion picture company directly for the production of a tax credit-eligible production.

"Eligible production expenditures" includes, but is not limited to, expenditures for cast and crew wages, accommodations, costs of set construction and operations, editing and related services, photography, sound synchronization, lighting, wardrobe, makeup and accessories, film processing, transfer, sound mixing, special and visual effects, music, location fees, and the purchase or rental of

facilities and equipment.

(5) "Motion picture" means entertainment content created in whole or in part within this state for distribution or exhibition to the general public, including, but not limited to, feature-length films; documentaries; long-form, specials, miniseries, series, and interstitial television programming; interactive web sites; sound recordings; videos; music videos; interactive television; interactive games; video games; commercials; any format of digital media; and any trailer, pilot, video teaser, or demo created primarily to stimulate the sale, marketing, promotion, or exploitation of future investment in either a product or a motion picture by any means and media in any digital media format, film, or videotape, provided the motion picture qualifies as a motion picture. "Motion picture" does not include any television program created primarily as news, weather, or financial market reports, a production featuring current events or sporting events, an awards show or other gala event, a production whose sole purpose is fundraising, a long-form production that primarily markets a product or service or in-house corporate advertising or other similar productions, a production for purposes of political advocacy, or any production for which records are required to be maintained under 18 U.S.C. 2257 with respect to sexually explicit content.

(B) For the purpose of encouraging and developing a strong film industry in this state, the director of development services may certify a motion picture produced by a motion picture company as a tax credit-eligible production. In the case of a television series, the director may certify the production of each episode of the series as a separate tax credit-eligible production. A motion picture company shall apply for certification of a motion picture as a tax credit-eligible production on a form and in the manner prescribed by the director. Each application shall include the following information:

- (1) The name and telephone number of the motion picture production company;
- (2) The name and telephone number of the company's contact person;
- (3) A list of the first preproduction date through the last production date in Ohio;
- (4) The Ohio production office address and telephone number;
- (5) The total production budget of the motion picture;
- (6) The total budgeted eligible production expenditures and the percentage that amount is of the total production budget of the motion picture;
- (7) The total percentage of the motion picture being shot in Ohio;
- (8) The level of employment of cast and crew who reside in Ohio;
- (9) A synopsis of the script;
- (10) The shooting script;
- (11) A creative elements list that includes the names of the principal cast and crew and the producer and director;
- (12) Documentation of financial ability to undertake and complete the motion picture, including documentation that shows that the company has secured funding equal to at least fifty per cent of the total production budget of the motion picture;
- (13) Estimated value of the tax credit based upon total budgeted eligible production expenditures;
- (14) Any other information considered necessary by the director.

Within ninety days after certification of a motion picture as a tax credit-eligible production,

and any time thereafter upon the request of the director of development services, the motion picture company shall present to the director sufficient evidence of reviewable progress. If the motion picture company fails to present sufficient evidence, the director may rescind the certification. Upon rescission, the director shall notify the applicant that the certification has been rescinded. Nothing in this section prohibits an applicant whose tax credit-eligible production certification has been rescinded from submitting a subsequent application for certification.

(C)(1) A motion picture company whose motion picture has been certified as a tax credit-eligible production may apply to the director of development services on or after July 1, 2009, for a refundable credit against the tax imposed by section 5726.02, 5733.06, 5747.02, or 5751.02 of the Revised Code. The director in consultation with the tax commissioner shall prescribe the form and manner of the application and the information or documentation required to be submitted with the application.

The credit is determined as follows:

(a) If the total budgeted eligible production expenditures stated in the application submitted under division (B) of this section or the actual eligible production expenditures as finally determined under division (D) of this section, whichever is least, is less than or equal to three hundred thousand dollars, no credit is allowed;

(b) If the total budgeted eligible production expenditures stated in the application submitted under division (B) of this section or the actual eligible production expenditures as finally determined under division (D) of this section, whichever is least, is greater than three hundred thousand dollars, the credit equals thirty per cent of the least of such budgeted or actual eligible expenditure amounts.

(2) Except as provided in division (C)(4) of this section, if the director of development services approves a motion picture company's application for a credit, the director shall issue a tax credit certificate to the company. The director in consultation with the tax commissioner shall prescribe the form and manner of issuing certificates. The director shall assign a unique identifying number to each tax credit certificate and shall record the certificate in a register devised and maintained by the director for that purpose. The certificate shall state the amount of the eligible production expenditures on which the credit is based and the amount of the credit. Upon the issuance of a certificate, the director shall certify to the tax commissioner the name of the applicant, the amount of eligible production expenditures shown on the certificate, and any other information required by the rules adopted to administer this section.

(3) The amount of eligible production expenditures for which a tax credit may be claimed is subject to inspection and examination by the tax commissioner or employees of the commissioner under section 5703.19 of the Revised Code and any other applicable law. Once the eligible production expenditures are finally determined under section 5703.19 of the Revised Code and division (D) of this section, the credit amount is not subject to adjustment unless the director determines an error was committed in the computation of the credit amount.

(4) No tax credit certificate may be issued before the completion of the tax credit-eligible production. Not more than forty million dollars of tax credit may be allowed per fiscal year beginning July 1, 2016, provided that, for any fiscal year in which the amount of tax credits allowed under this section is less than that maximum annual amount, the amount not allowed for that fiscal year shall be added to the maximum annual amount that may be allowed for the following fiscal year.



(5) In approving applications for tax credits under this section, the director shall give priority to tax-credit eligible productions that are television series or miniseries.

(D) A motion picture company whose motion picture has been certified as a tax credit-eligible production shall engage, at the company's expense, an independent certified public accountant to examine the company's production expenditures to identify the expenditures that qualify as eligible production expenditures. The certified public accountant shall issue a report to the company and to the director of development services certifying the company's eligible production expenditures and any other information required by the director. Upon receiving and examining the report, the director may disallow any expenditure the director determines is not an eligible production expenditure. If the director disallows an expenditure, the director shall issue a written notice to the motion picture production company stating that the expenditure is disallowed and the reason for the disallowance. Upon examination of the report and disallowance of any expenditures, the director shall determine finally the lesser of the total budgeted eligible production expenditures stated in the application submitted under division (B) of this section or the actual eligible production expenditures for the purpose of computing the amount of the credit.

(E) No credit shall be allowed under section 5726.55, 5733.59, 5747.66, or 5751.54 of the Revised Code unless the director has reviewed the report and made the determination prescribed by division (D) of this section.

(F) This state reserves the right to refuse the use of this state's name in the credits of any tax credit-eligible motion picture production.

(G)(1) The director of development services in consultation with the tax commissioner shall adopt rules for the administration of this section, including rules setting forth and governing the criteria for determining whether a motion picture production is a tax credit-eligible production; activities that constitute the production of a motion picture; reporting sufficient evidence of reviewable progress; expenditures that qualify as eligible production expenditures; a competitive process for approving credits; consideration of geographic distribution of credits; and implementation of the program described in division (I) of this section. The rules shall be adopted under Chapter 119. of the Revised Code.

(2) To cover the administrative costs of the program, the director shall require each applicant to pay an application fee equal to the lesser of ten thousand dollars or one per cent of the estimated value of the tax credit as stated in the application. The fees collected shall be credited to the tax incentives operating fund created in section 122.174 of the Revised Code. All grants, gifts, fees, and contributions made to the director for marketing and promotion of the motion picture industry within this state shall also be credited to the fund.

(H)(1) After the director of development services makes the determination required under division (D) of this section, a motion picture company to which a tax credit certificate is issued may transfer the authority to claim all or a portion of the amount of the tax credit the motion picture company is authorized to claim pursuant to that certificate under section 5726.55, 5733.59, 5747.66, or 5751.54 of the Revised Code to one or more other persons. Within thirty days after a transfer under this division, the motion picture company shall submit the following information to the director, on a form prescribed by the director:

(a) Information necessary for the director to identify the certificate that is the basis for the

transfer;

(b) The portion or amount of the tax credit transferred to each transferee;

(c) The portion or amount of the tax credit that the motion picture company retains the authority to claim;

(d) The tax identification number of each transferee;

(e) The date of the transfer;

(f) Any other information required by the director;

(g) Any information required by the tax commissioner.

The director shall deliver a copy of any submission received under division (H)(1) of this section to the tax commissioner.

(2) A transferee may not claim a credit under section 5726.55, 5733.59, 5747.66, or 5751.54 of the Revised Code unless and until the transferring motion picture company complies with division (H)(1) of this section. A transferee may claim the transferred amount of any credit or portion of a credit for the same taxable year or tax period for which the transferring motion picture company was authorized to claim the credit or portion of a credit pursuant to the certificate. A motion picture company shall make no transfer under division (H)(1) of this section after the last day of the tax period or taxable year for which the motion picture company is required to claim the credit pursuant to the certificate.

A motion picture company may make not more than one transfer under division (H)(1) of this section for each tax credit certificate, but pursuant to that transaction, may allocate the authority to claim a portion of the credit to more than one transferee. A motion picture company may not authorize more than one transferee to claim the same portion of a credit.

(I) The director of development services shall establish a program for the training of Ohio residents who are or wish to be employed in the film or multimedia industry. Under the program, the director shall:

(1) Certify individuals as film and multimedia trainees. In order to receive such a certification, an individual must be an Ohio resident, have participated in relevant on-the-job training or have completed a relevant training course approved by the director, and have met any other requirements established by the director.

(2) Accept applications from motion picture companies that intend to hire and provide on-the-job training to one or more certified film and multimedia trainees who will be employed in the company's tax credit-eligible production.

(3) Upon completion of a tax-credit eligible production, and upon the receipt of any salary information and other documentation required by the director, authorize a reimbursement payment to each motion picture company whose application was approved under division (I)(2) of this section. The payment shall equal fifty per cent of the salaries paid to film and multimedia trainees employed in the production.

**Sec. 122.87.** As used in sections 122.87 to 122.90 of the Revised Code:

(A) "Surety company" means a company that is authorized by the department of insurance to issue bonds as surety.

(B) "Minority business" means any of the following occupations:

(1) Minority construction contractor;

(2) Minority seller;

(3) Minority service vendor.

(C) "Minority construction contractor" means a person who is both a construction contractor and an owner of a minority business enterprise certified under division (B) of section 123.151 of the Revised Code.

(D) "Minority seller" means a person who is both a seller of goods and an owner of a minority business enterprise listed on the special minority business enterprise bid notification list under section 125.08 of the Revised Code.

(E) "Minority service vendor" means a person who is both a vendor of services and an owner of a minority business enterprise listed on the special minority business enterprise bid notification list under section 125.08 of the Revised Code.

(F) "Minority business enterprise" has the meaning given in section 122.71 of the Revised Code.

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

**Sec. 122.942.** (A) The director of development services shall, with respect to each project for which a loan, grant, tax credit, or other state-funded financial assistance is awarded by the development services agency, make all of the following information available to the public within thirty days after the agency enters into a contract with the recipient:

(1) A summary of the project that includes all of the following:

(a) A breakdown of the sources of the funds for each aspect of the project, such as state or federal programs, the operating company or entity itself, or any private financing, and a complete description of how each type of funds is to be used;

(b) The total amount of assistance awarded;

(c) A brief description of the project;

(d) The following information regarding the project:

(i) The operating company or entity that is awarded the assistance;

(ii) The products or services provided by the operating company or entity;

(iii) The number of new jobs, at-risk jobs, and retained jobs anticipated; the hourly wages and hourly benefits of those jobs; and the dollar amount of assistance per job affected.

(e) The strengths and weaknesses of the project;

(f) The location of the project, the location of the operating company or entity, and whether relocation is involved;

(g) The Ohio house district and Ohio senate district in which the project is located;

(h) The payment terms and conditions of the assistance awarded;

(i) The collateral or security required;

(j) The recommendation of the staff assigned to the project.

(2) A comprehensive report that provides a description of the operating company or entity; all relevant information regarding the project; an analysis of the operating company or entity and the goods or services it provides; the explicit terms of any collateral or security required; and the

reasoning behind the staffs' recommendation.

(3) Any other relevant information the controlling board may request, or the director may consider necessary to more fully describe the details of the assistance or the operating company or entity, that is provided before the controlling board approves the assistance.

(B)(1) As used in this division, "tax incentive" means any exemption, either in whole or in part, of the income, goods, services, or property of a taxpayer from the effect of taxes levied by or under the Revised Code. "Tax incentive" includes, but is not limited to, tax exemptions, deferrals, exclusions, allowances, credits, deductions, reimbursements, and preferential tax rates.

(2) The director of development services shall estimate the total revenue that will be forgone by the state as a result of each tax incentive approved by the tax credit authority created under section 122.17 of the Revised Code. The estimate shall be based on the monetary value of the tax incentive and not on potential economic growth. The director shall make each estimate, along with the name and address of the taxpayer that will receive the tax incentive, available to the public within thirty days after the date the tax incentive is approved by the tax credit authority.

Nothing in this division precludes the director of development services from making other information regarding tax incentives available to the public unless disclosure of such information is prohibited by any other section of the Revised Code.

(3) The director may adopt rules in accordance with Chapter 119. of the Revised Code to effectuate this division.

(C) Nothing in this section shall be construed as requiring the disclosure of information that is not a public record under section 149.43 of the Revised Code.

**Sec. 122.95.** As used in this section and section 122.951 of the Revised Code:

(A) "Commercial or industrial areas" means areas zoned either commercial or industrial by the local zoning authority or an area not zoned, but in which there is located one or more commercial or industrial activities.

(B) "Eligible county" means any of the following:

(1) A county designated as being in the "Appalachian region" under the "Appalachian Regional Development Act of 1965," 79 Stat. 5, 40 U.S.C. App. 403;

(2) A county that is a "distressed area" as defined in section 122.16 of the Revised Code;

(3) A county that within the previous calendar year has had a job loss numbering two hundred or more of which one hundred or more are manufacturing-related as reported in the notices prepared by the department of job and family services pursuant to the "Worker Adjustment and Retraining Notification Act," 102 Stat. 890 (1988), 29 U.S.C. 2101 et seq., as amended.

**Sec. 122.951.** (A) If the director of development services determines that a grant may create new jobs or preserve existing jobs and employment opportunities in an eligible county, the director may grant up to seven hundred fifty thousand dollars to the eligible county for the purpose of acquiring commercial or industrial land or buildings and making improvements to commercial or industrial areas within the eligible county, including, but not limited to:

(1) Expanding, remodeling, renovating, and modernizing buildings, structures, and other improvements;

(2) Remediating environmentally contaminated property on which hazardous substances exist under conditions that have caused or would cause the property to be identified as contaminated by the

Ohio or United States environmental protection agency; and

(3) Infrastructure improvements, including, but not limited to, site preparation, including building demolition and removal; streets, roads, bridges, and traffic control devices; parking lots and facilities; water and sewer lines and treatment plants; gas, electric, and telecommunications, including broadband, hook-ups; and water and railway access improvements.

A grant awarded under this section shall provide not more than seventy-five per cent of the estimated total cost of the project for which an application is submitted under this section. In addition, not more than ten per cent of the amount of the grant shall be used to pay the costs of professional services related to the project.

(B) An eligible county may apply to the director for a grant under this section in the form and manner prescribed by the director. The eligible county shall include on the application all information required by the director. The application shall require the eligible county to provide a detailed description of how the eligible county would use a grant to improve commercial or industrial areas within the eligible county, and to specify how a grant will lead to the creation of new jobs or the preservation of existing jobs and employment opportunities in the eligible county. The eligible county shall specify in the application the amount of the grant for which the eligible county is applying.

(C) An eligible county may designate a port authority, community improvement corporation as defined in section 122.71 of the Revised Code, or other economic development entity that is located in the county to apply for a grant under this section. If a port authority, community improvement corporation, or other economic development entity is so designated, references to an eligible county in this section include references to the authority, corporation, or other entity.

**Sec. 123.10.** (A) As used in this section and section 123.11 of the Revised Code, "public exigency" means an injury or obstruction that occurs in any public works of the state and that materially impairs its immediate use or places in jeopardy property adjacent to it; an immediate danger of such an injury or obstruction; or an injury or obstruction, or an immediate danger of an injury or obstruction, that occurs in any public works of the state and that materially impairs its immediate use or places in jeopardy property adjacent to it.

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

(C) The executive director of the Ohio facilities construction commission may issue a declaration of a public exigency on the executive director's own initiative or upon the request of the director of any state agency, a state institution of higher education as defined in division (A)(1) of section 3345.12 of the Revised Code, or any other state instrumentality. The executive director's declaration shall identify the specific injury, obstruction, or danger that is the subject of the declaration and shall set forth a dollar limitation for the repair, removal, or prevention of that exigency under the declaration.

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

**Sec. 123.28.** As used in this section and in section 123.281 of the Revised Code:

(A) "Culture" means any of the following:

(1) Visual, musical, dramatic, graphic, design, and other arts, including, but not limited to, architecture, dance, literature, motion pictures, music, painting, photography, sculpture, and theater, and the provision of training or education in these arts;

(2) The presentation or making available, in museums or other indoor or outdoor facilities, of principles of science and their development, use, or application in business, industry, or commerce or of the history, heritage, development, presentation, and uses of the arts described in division (A)(1) of this section and of transportation;

(3) The preservation, presentation, or making available of features of archaeological, architectural, environmental, or historical interest or significance in a state historical facility or a local historical facility.

(B) "Cultural organization" means either of the following:

(1) A governmental agency or Ohio nonprofit corporation, including the Ohio history connection, that provides programs or activities in areas directly concerned with culture;

(2) A regional arts and cultural district as defined in section 3381.01 of the Revised Code.

(C) "Cultural project" means all or any portion of an Ohio cultural facility for which the general assembly has made an appropriation or has specifically authorized the spending of money or the making of rental payments relating to the financing of construction.

(D) "Cooperative use agreement" means a contract between the Ohio facilities construction commission and a cultural organization providing the terms and conditions of the cooperative use of an Ohio cultural facility.

(E) "Costs of operation" means amounts required to manage an Ohio cultural facility that are incurred following the completion of construction of its cultural project, provided that both of the following apply:

(1) Those amounts either:

(a) Have been committed to a fund dedicated to that purpose;

(b) Equal the principal of any endowment fund, the income from which is dedicated to that purpose.

(2) The commission and the cultural organization have executed an agreement with respect to either of those funds.

(F) "Governmental agency" means a state agency, a state institution of higher education as defined in section 3345.12 of the Revised Code, a municipal corporation, county, township, or school district, a port authority created under Chapter 4582. of the Revised Code, any other political subdivision or special district in this state established by or pursuant to law, or any combination of these entities; except where otherwise indicated, the United States or any department, division, or agency of the United States, or any agency, commission, or authority established pursuant to an

interstate compact or agreement.

(G) "Local contributions" means the value of an asset provided by or on behalf of a cultural organization from sources other than the state, the value and nature of which shall be approved by the Ohio facilities construction commission, in its sole discretion. "Local contributions" may include the value of the site where a cultural project is to be constructed. All "local contributions," except a contribution attributable to such a site, shall be for the costs of construction of a cultural project or the creation or expansion of an endowment for the costs of operation of a cultural facility.

(H) "Local historical facility" means a site or facility, other than a state historical facility, of archaeological, architectural, environmental, or historical interest or significance, or a facility, including a storage facility, appurtenant to the operations of such a site or facility, that is owned by a cultural organization and is used for or in connection with cultural activities, including the presentation or making available of culture to the public.

(I) "Manage," "operate," or "management" means the provision of, or the exercise of control over the provision of, activities:

(1) Relating to culture for an Ohio cultural facility, including as applicable, but not limited to, providing for displays, exhibitions, specimens, and models; booking of artists, performances, or presentations; scheduling; and hiring or contracting for directors, curators, technical and scientific staff, ushers, stage managers, and others directly related to the cultural activities in the facility; but not including general building services;

(2) Relating to sports and athletic events for an Ohio sports facility, including as applicable, but not limited to, providing for booking of athletes, teams, and events; scheduling; and hiring or contracting for staff, ushers, managers, and others directly related to the sports and athletic events in the facility; but not including general building services.

(J) "Ohio cultural facility" means any of the following:

(1) The theaters located in the state office tower at 77 South High street in Columbus;

(2) Any cultural facility in this state that is managed directly by, or is subject to a cooperative use or management agreement with, the Ohio facilities construction commission.

(3) A state historical facility or a local historical facility.

(K) "Construction" includes acquisition, including acquisition by lease-purchase, demolition, reconstruction, alteration, renovation, remodeling, enlargement, improvement, site improvements, and related equipping and furnishing.

(L) "State historical facility" means a site or facility that has all of the following characteristics:

(1) It is created, supervised, operated, protected, maintained, and promoted by the Ohio history connection pursuant to the Ohio history connection's performance of public functions under sections 149.30 and 149.302 of the Revised Code.

(2) Its title must reside wholly or in part with the state, the Ohio history connection, or both the state and the Ohio history connection.

(3) It is managed directly by or is subject to a cooperative use or management agreement with the Ohio facilities construction commission and is used for or in connection with cultural activities, including the presentation or making available of culture to the public.

(M) "Ohio sports facility" means all or a portion of a stadium, arena, tennis facility,

motorsports complex, or other capital facility in this state. A primary purpose of the facility shall be to provide a site or venue for the presentation to the public of motorsports events, professional tennis tournaments, or events of one or more major or minor league professional athletic or sports teams that are associated with the state or with a city or region of the state. The facility shall be, in the case of a motorsports complex, owned by the state or governmental agency, or in all other instances, owned by or located on real property owned by the state or a governmental agency, and includes all parking facilities, walkways, and other auxiliary facilities, equipment, furnishings, and real and personal property and interests and rights therein, that may be appropriate for or used for or in connection with the facility or its operation, for capital costs of which state funds are spent pursuant to this section and section 123.281 of the Revised Code. A facility constructed as an Ohio sports facility may be both an Ohio cultural facility and an Ohio sports facility.

(N) "Motorsports" means sporting events in which motor vehicles are driven on a clearly demarcated tracked surface.

**Sec. 123.281.** (A) The Ohio facilities construction commission shall provide for the construction of a cultural project in conformity with Chapter 153. of the Revised Code, except for construction services provided on behalf of the state by a governmental agency or a cultural organization in accordance with divisions (B) and (C) of this section.

(B) In order for a governmental agency or a cultural organization to provide construction services on behalf of the state for a cultural project, other than a state historical facility, for which the general assembly has made an appropriation or specifically authorized the spending of money or the making of rental payments relating to the financing of the construction, the governmental agency or cultural organization shall submit to the Ohio facilities construction commission a cooperative use agreement that includes, but is not limited to, provisions that:

- (1) Specify how the proposed project will support culture;
- (2) Specify that the governmental agency or cultural organization has local contributions amounting to not less than fifty per cent of the total state funding for the cultural project;
- (3) Specify that the funds shall be used only for construction;
- (4) Identify the facility to be constructed, renovated, remodeled, or improved;
- (5) Specify that the project scope meets the intent and purpose of the project appropriation and that the project can be completed and ready to support culture without exceeding appropriated funds;
- (6) Specify that the governmental agency or cultural organization shall hold the Ohio facilities construction commission harmless from all liability for the operation and maintenance costs of the facility;
- (7) Specify that the agreement or any actions taken under it are not subject to Chapter 123. or 153. of the Revised Code, except for sections 123.20, 123.201, 123.21, 123.28, 123.281, and 153.011 of the Revised Code, and are subject to Chapter 4115. of the Revised Code; and
- (8) Provide that amendments to the agreement shall require the approval of the Ohio facilities construction commission.

(C) In order for a cultural organization to provide construction services on behalf of the state for a state historical facility for which the general assembly has made an appropriation or specifically authorized the spending of money or the making of rental payments relating to the financing of the



construction, the cultural organization shall submit to the Ohio facilities construction commission a cooperative use agreement that includes, but is not limited to, provisions that:

- (1) Specify how the proposed project will support culture;
- (2) Specify that the funds shall be used only for construction;
- (3) Specify that not more than three per cent of the funds may be used by the cultural organization to administer the project;
- (4) Identify the facility to be constructed, renovated, remodeled, or improved;
- (5) Specify that the project scope meets the intent and purpose of the project appropriation and that the project can be completed and ready to support culture without exceeding appropriated funds;
- (6) Specify that the cultural organization shall hold the Ohio facilities construction commission harmless from all liability for the operation and maintenance costs of the facility;
- (7) Specify that the agreement or any actions taken under it are not subject to Chapter 123., 153., or 4115. of the Revised Code, except for sections 123.20, 123.201, 123.21, 123.28, and 123.281 of the Revised Code; and
- (8) Provide that amendments to the agreement shall require the approval of the Ohio facilities construction commission.

(D) For an Ohio sports facility that is financed in part by obligations issued under Chapter 154. of the Revised Code, construction services shall be provided on behalf of the state by or at the direction of the governmental agency or nonprofit corporation that will own or be responsible for the management of the facility. Any construction services to be provided by a governmental agency or nonprofit corporation shall be specified in a cooperative use agreement between the Ohio facilities construction commission and the governmental agency or nonprofit corporation. The agreement and any actions taken under it are not subject to Chapter 123. or 153. of the Revised Code, except for sections 123.20, 123.201, 123.21, 123.28, 123.281, and 153.011 of the Revised Code, and are subject to Chapter 4115. of the Revised Code.

(E) State funds shall not be used to pay or reimburse more than fifteen per cent of the initial estimated construction cost of an Ohio sports facility, excluding any site acquisition cost, and no state funds, including any state bond proceeds, shall be spent on any Ohio sports facility under this chapter unless, with respect to that facility, all of the following apply:

(1) The Ohio facilities construction commission has received a financial and development plan satisfactory to it, and provision has been made, by agreement or otherwise, satisfactory to the commission, for a contribution amounting to not less than eighty-five per cent of the total estimated construction cost of the facility, excluding any site acquisition cost, from sources other than the state.

(2) The general assembly has specifically authorized the spending of money on, or made an appropriation for, the construction of the facility, or for rental payments relating to state financing of all or a portion of the costs of constructing the facility. Authorization to spend money, or an appropriation, for planning or determining the feasibility of or need for the facility does not constitute authorization to spend money on, or an appropriation for, costs of constructing the facility.

(3) If state bond proceeds are being used for the Ohio sports facility, the state or a governmental agency owns or has sufficient property interests in the facility or in the site of the facility or in the portion or portions of the facility financed from proceeds of state bonds, which may

include, but is not limited to, the right to use or to require the use of the facility for the presentation of sport and athletic events to the public at the facility.

(F) In addition to the requirements of division (E) of this section, no state funds, including any state bond proceeds, shall be spent on any Ohio sports facility that is a motorsports complex, unless, with respect to that facility, both of the following apply:

(1) Motorsports events shall be presented at the facility pursuant to a lease entered into with the owner of the facility. The term of the lease shall be for a period of not less than the greater of the useful life of the portion of the facility financed from proceeds of state bonds as determined using the guidelines for maximum maturities as provided under divisions (B) and (C) of section 133.20 of the Revised Code, or the period of time remaining to the date of payment or provision for payment of outstanding state bonds allocable to costs of the facility, all as determined by the director of budget and management and certified by the executive director of the Ohio facilities construction commission and to the treasurer of state.

(2) Any motorsports organization that commits to using the facility for an established period of time shall give the political subdivision in which the facility is located not less than six months' advance notice if the organization intends to cease utilizing the facility prior to the expiration of that established period. Such a motorsports organization shall be liable to the state for any state funds used on the construction costs of the facility.

(G) In addition to the requirements of division (E) of this section, no state bond proceeds shall be spent on any Ohio sports facility that is a tennis facility, unless the owner or manager of the facility provides contractual commitments from a national or international professional tennis organization in a form acceptable to the Ohio facilities construction commission that assures that one or more sanctioned professional tennis events will be presented at the facility during each year that the bonds remain outstanding.

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

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

- (1) All officers elected by popular vote or persons appointed to fill vacancies in those offices;
- (2) All election officers as defined in section 3501.01 of the Revised Code;
- (3)(a) The members of all boards and commissions, and heads of principal departments, boards, and commissions appointed by the governor or by and with the governor's consent;
- (b) The heads of all departments appointed by a board of county commissioners;
- (c) The members of all boards and commissions and all heads of departments appointed by the mayor, or, if there is no mayor, such other similar chief appointing authority of any city or city school district;

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

- (4) The members of county or district licensing boards or commissions and boards of

revision, and not more than five deputy county auditors;

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

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

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

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

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

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

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

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

(12) Such teachers and employees in the agricultural experiment stations; such students in normal schools, colleges, and universities of the state who are employed by the state or a political subdivision of the state in student or intern classifications; and such unskilled labor positions as the director of administrative services, with respect to positions in the service of the state, or any municipal civil service commission may find it impracticable to include in the competitive classified service; provided such exemptions shall be by order of the commission or the director, duly entered on the record of the commission or the director with the reasons for each such exemption;

(13) Any physician or dentist who is a full-time employee of the department of mental health and addiction services, the department of developmental disabilities, or an institution under the

jurisdiction of either department; and physicians who are in residency programs at the institutions;

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

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

(16) Employees of the governor's office;

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

(18) Executive directors, deputy directors, and program directors employed by boards of alcohol, drug addiction, and mental health services under Chapter 340. of the Revised Code, and secretaries of the executive directors, deputy directors, and program directors;

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

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

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

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

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

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

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

(26) Up to five positions at each of the administrative departments listed in section 121.02 of the Revised Code and at the department of taxation, department of the adjutant general, department of education, Ohio board of regents, bureau of workers' compensation, industrial commission, state lottery commission, opportunities for Ohioans with disabilities agency, and public utilities commission of Ohio that the head of that administrative department or of that other state agency determines to be involved in policy development and implementation. The head of the administrative department or other state agency shall set the compensation for employees in these positions at a rate that is not less than the minimum compensation specified in pay range 41 but not more than the maximum compensation specified in pay range 47 of salary schedule E-2 in section 124.152 of the Revised Code. The authority to establish positions in the unclassified service under division (A)(26) of this section is in addition to and does not limit any other authority that an administrative

department or state agency has under the Revised Code to establish positions, appoint employees, or set compensation.

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

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

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

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

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

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

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

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

(2) The unskilled labor class shall include ordinary unskilled laborers. Vacancies in the labor class for positions in service of the state shall be filled by appointment from lists of applicants registered by the director or the director's designee. Vacancies in the labor class for all other positions shall be filled by appointment from lists of applicants registered by a commission. The director or the commission, as applicable, by rule, shall require an applicant for registration in the labor class to furnish evidence or take tests as the director or commission considers proper with respect to age, residence, physical condition, ability to labor, honesty, sobriety, industry, capacity, and experience in the work or employment for which application is made. Laborers who fulfill the requirements shall be placed on the eligible list for the kind of labor or employment sought, and preference shall be given in employment in accordance with the rating received from that evidence or in those tests.

Upon the request of an appointing officer, stating the kind of labor needed, the pay and probable length of employment, and the number to be employed, the director or commission, as applicable, shall certify from the highest on the list double the number to be employed; from this number, the appointing officer shall appoint the number actually needed for the particular work. If more than one applicant receives the same rating, priority in time of application shall determine the order in which their names shall be certified for appointment.

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

(D)(1) This division does not apply to persons in the unclassified service who have the right to resume positions in the classified service under sections 4121.121, 5119.18, 5120.38, 5120.381, 5120.382, 5123.08, and 5139.02 of the Revised Code or to cities, counties, or political subdivisions of the state.

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

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

(b) That person held a permanent position on or after July 1, 2007, in the classified service within the appointing authority's agency, and was appointed to the position in the unclassified service prior to January 1, 2016;

(c) That person held a permanent position on or after January 1, 2016, in the classified service within the appointing authority's agency, and is within five years from the effective date of the person's appointment in the unclassified service.

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

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

(b) Upon transfer to a different agency.

(4) Reinstatement to a position in the classified service shall be to a position substantially equal to that position in the classified service held previously, as certified by the director of administrative services. If the position the person previously held in the classified service has been placed in the unclassified service or is otherwise unavailable, the person shall be appointed to a position in the classified service within the appointing authority's agency that the director of

administrative services certifies is comparable in compensation to the position the person previously held in the classified service. Service in the position in the unclassified service shall be counted as service in the position in the classified service held by the person immediately prior to the person's appointment to the position in the unclassified service. When a person is reinstated to a position in the classified service as provided in this division, the person is entitled to all rights, status, and benefits accruing to the position in the classified service during the person's time of service in the position in the unclassified service.

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

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

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

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

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

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

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

(1) Elected officials;

(2) Legislative employees, employees of the legislative service commission, employees in the office of the governor, employees who are in the unclassified civil service and exempt from collective bargaining coverage in the office of the secretary of state, auditor of state, treasurer of state, and attorney general, and employees of the supreme court;

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

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

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

(D)(1) When the director proposes to modify a classification or the assignment of classes to appropriate pay ranges, the director shall notify the appointing authorities of the affected employees before implementing the modification. The director's notice shall include the effective date of the modification. The appointing authorities shall notify the affected employees regarding the modification.

(2) When the director proposes to reclassify any employee in the service of the state so that the employee is adversely affected, the director shall give to the employee affected and to the employee's appointing authority a written notice setting forth the proposed new classification, pay range, and salary. Upon the request of any classified employee in the service of the state who is not serving in a probationary period, the director shall perform a job audit to review the classification of the employee's position to determine whether the position is properly classified. The director shall give to the employee affected and to the employee's appointing authority a written notice of the director's determination whether or not to reclassify the position or to reassign the employee to another classification. An employee or appointing authority desiring a hearing shall file a written request for the hearing with the state personnel board of review within thirty days after receiving the notice. The board shall set the matter for a hearing and notify the employee and appointing authority of the time and place of the hearing. The employee, the appointing authority, or any authorized representative of the employee who wishes to submit facts for the consideration of the board shall be afforded reasonable opportunity to do so. After the hearing, the board shall consider anew the reclassification and may order the reclassification of the employee and require the director to assign the employee to such appropriate classification as the facts and evidence warrant. As provided in division (A)(1) of section 124.03 of the Revised Code, the board may determine the most appropriate classification for the position of any employee coming before the board, with or without a job audit.



The board shall disallow any reclassification or reassignment classification of any employee when it finds that changes have been made in the duties and responsibilities of any particular employee for political, religious, or other unjust reasons.

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

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

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

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

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

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

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

(2) Each board of trustees shall adopt rules under section 111.15 of the Revised Code to carry out the matters of governance described in division (F)(1) of this section. Until the board of trustees adopts those rules, a state university or college shall continue to operate pursuant to the applicable rules adopted by the director of administrative services under this chapter.

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

(2)(a) Each board of county commissioners, by a resolution adopted by a majority of its members, may designate the county personnel department of the county to exercise the powers, duties, and functions specified in sections 124.01 to 124.64 and Chapter 325. of the Revised Code with regard to employees in the service of the county, except for the powers and duties of the state personnel board of review, which powers and duties shall not be construed as having been modified

or diminished in any manner by division (G)(2) of this section, with respect to the employees for whom the board of county commissioners is the appointing authority or co-appointing authority.

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

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

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

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

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

(6) A county personnel department, in carrying out its duties, shall adhere to merit system principles with regard to employees of county departments of job and family services, child support enforcement agencies, and public child welfare agencies so that there is no threatened loss of federal funding for these agencies, and the county is financially liable to the state for any loss of federal funds due to the action or inaction of the county personnel department.

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

(I) The director of administrative services shall establish the rate and method of compensation for all employees who are paid directly by warrant of the director of budget and management and who are serving in positions that the director of administrative services has determined impracticable to include in the state job classification plan. This division does not apply to elected officials, legislative employees, employees of the legislative service commission, employees who are in the unclassified civil service and exempt from collective bargaining coverage in the office of the secretary of state, auditor of state, treasurer of state, and attorney general,

employees of the courts, employees of the bureau of workers' compensation whose compensation the administrator of workers' compensation establishes under division (B) of section 4121.121 of the Revised Code, or employees of an appointing authority authorized by law to fix the compensation of those employees.

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

**Sec. 124.15.** (A) Board and commission members appointed prior to July 1, 1991, shall be paid a salary or wage in accordance with the following schedules of rates:  
Schedule B

Pay Ranges and Step Values

Range	Step 1	Step 2	Step 3	Step 4		
23	Hourly 5.72	5.91	6.10	6.31		
	Annually	11897.60	12292.80	12688.00	13124.80	
	Step 5	Step 6				
	Hourly 6.52	6.75				
	Annually	13561.60	14040.00			
	Step 1	Step 2	Step 3	Step 4		
24	Hourly 6.00	6.20	6.41	6.63		
	Annually	12480.00	12896.00	13332.80	13790.40	
	Step 5	Step 6				
	Hourly 6.87	7.10				
	Annually	14289.60	14768.00			
	Step 1	Step 2	Step 3	Step 4		
25	Hourly 6.31	6.52	6.75	6.99		
	Annually	13124.80	13561.60	14040.00	14539.20	
	Step 5	Step 6				

	Hourly 7.23	7.41				
	Annually	15038.40	15412.80			
	Step 1	Step 2	Step 3	Step 4		
26	Hourly 6.63	6.87	7.10	7.32		
	Annually	13790.40	14289.60	14768.00	15225.60	
	Step 5	Step 6				
	Hourly 7.53	7.77				
	Annually	15662.40	16161.60			
	Step 1	Step 2	Step 3	Step 4		
27	Hourly 6.99	7.23	7.41	7.64		
	Annually	14534.20	15038.40	15412.80	15891.20	
	Step 5	Step 6	Step 7			
	Hourly 7.88	8.15	8.46			
	Annually	16390.40	16952.00	17596.80		
	Step 1	Step 2	Step 3	Step 4		
28	Hourly 7.41	7.64	7.88	8.15		
	Annually	15412.80	15891.20	16390.40	16952.00	
	Step 5	Step 6	Step 7			
	Hourly 8.46	8.79	9.15			
	Annually	17596.80	18283.20	19032.00		
	Step 1	Step 2	Step 3	Step 4		
29	Hourly 7.88	8.15	8.46	8.79		
	Annually	16390.40	16952.00	17596.80	18283.20	
	Step 5	Step 6	Step 7			
	Hourly 9.15	9.58	10.01			
	Annually	19032.00	19926.40	20820.80		
	Step 1	Step 2	Step 3	Step 4		
30	Hourly 8.46	8.79	9.15	9.58		
	Annually	17596.80	18283.20	19032.00	19926.40	
	Step 5	Step 6	Step 7			
	Hourly 10.01	10.46	10.99			
	Annually	20820.80	21756.80	22859.20		

		Step 1	Step 2	Step 3	Step 4		
31	Hourly	9.15	9.58	10.01	10.46		
	Annually		19032.00	19962.40	20820.80	21756.80	
		Step 5	Step 6	Step 7			
	Hourly	10.99	11.52	12.09			
	Annually		22859.20	23961.60	25147.20		
		Step 1	Step 2	Step 3	Step 4		
32	Hourly	10.01	10.46	10.99	11.52		
	Annually		20820.80	21756.80	22859.20	23961.60	
		Step 5	Step 6	Step 7	Step 8		
	Hourly	12.09	12.68	13.29	13.94		
	Annually		25147.20	26374.40	27643.20	28995.20	
		Step 1	Step 2	Step 3	Step 4		
33	Hourly	10.99	11.52	12.09	12.68		
	Annually		22859.20	23961.60	25147.20	26374.40	
		Step 5	Step 6	Step 7	Step 8		
	Hourly	13.29	13.94	14.63	15.35		
	Annually		27643.20	28995.20	30430.40	31928.00	
		Step 1	Step 2	Step 3	Step 4		
34	Hourly	12.09	12.68	13.29	13.94		
	Annually		25147.20	26374.40	27643.20	28995.20	
		Step 5	Step 6	Step 7	Step 8		
	Hourly	14.63	15.35	16.11	16.91		
	Annually		30430.40	31928.00	33508.80	35172.80	
		Step 1	Step 2	Step 3	Step 4		
35	Hourly	13.29	13.94	14.63	15.35		
	Annually		27643.20	28995.20	30430.40	31928.00	
		Step 5	Step 6	Step 7	Step 8		
	Hourly	16.11	16.91	17.73	18.62		
	Annually		33508.80	35172.80	36878.40	38729.60	
		Step 1	Step 2	Step 3	Step 4		
36	Hourly	14.63	15.35	16.11	16.91		

Annually	30430.40	31928.00	33508.80	35172.80
	Step 5	Step 6	Step 7	Step 8
Hourly	17.73	18.62	19.54	20.51
Annually	36878.40	38729.60	40643.20	42660.80

Schedule C

Pay Range and Values

Range	Minimum	Maximum		
41	Hourly	10.44	15.72	
	Annually		21715.20	32697.60
42	Hourly	11.51	17.35	
	Annually		23940.80	36088.00
43	Hourly	12.68	19.12	
	Annually		26374.40	39769.60
44	Hourly	13.99	20.87	
	Annually		29099.20	43409.60
45	Hourly	15.44	22.80	
	Annually		32115.20	47424.00
46	Hourly	17.01	24.90	
	Annually		35380.80	51792.00
47	Hourly	18.75	27.18	
	Annually		39000.00	56534.40
48	Hourly	20.67	29.69	
	Annually		42993.60	61755.20
49	Hourly	22.80	32.06	
	Annually		47424.00	66684.80

(B) The pay schedule of all employees shall be on a biweekly basis, with amounts computed on an hourly basis.

(C) Part-time employees shall be compensated on an hourly basis for time worked, at the rates shown in division (A) of this section or in section 124.152 of the Revised Code.

(D) The salary and wage rates in division (A) of this section or in section 124.152 of the Revised Code represent base rates of compensation and may be augmented by the provisions of section 124.181 of the Revised Code. In those cases where lodging, meals, laundry, or other personal services are furnished an employee in the service of the state, the actual costs or fair market value of the personal services shall be paid by the employee in such amounts and manner as determined by

the director of administrative services and approved by the director of budget and management, and those personal services shall not be considered as a part of the employee's compensation. An appointing authority that appoints employees in the service of the state, with the approval of the director of administrative services and the director of budget and management, may establish payments to employees for uniforms, tools, equipment, and other requirements of the department and payments for the maintenance of them.

The director of administrative services may review collective bargaining agreements entered into under Chapter 4117. of the Revised Code that cover employees in the service of the state and determine whether certain benefits or payments provided to the employees covered by those agreements should also be provided to employees in the service of the state who are exempt from collective bargaining coverage and are paid in accordance with section 124.152 of the Revised Code or are listed in division (B)(2) or (4) of section 124.14 of the Revised Code. On completing the review, the director of administrative services, with the approval of the director of budget and management, may provide to some or all of these employees any payment or benefit, except for salary, contained in such a collective bargaining agreement even if it is similar to a payment or benefit already provided by law to some or all of these employees. Any payment or benefit so provided shall not exceed the highest level for that payment or benefit specified in such a collective bargaining agreement. The director of administrative services shall not provide, and the director of budget and management shall not approve, any payment or benefit to such an employee under this division unless the payment or benefit is provided pursuant to a collective bargaining agreement to a state employee who is in a position with similar duties as, is supervised by, or is employed by the same appointing authority as, the employee to whom the benefit or payment is to be provided.

As used in this division, "payment or benefit already provided by law" includes, but is not limited to, bereavement, personal, vacation, administrative, and sick leave, disability benefits, holiday pay, and pay supplements provided under the Revised Code, but does not include wages or salary.

(E) New employees paid in accordance with schedule B of division (A) of this section or schedule E-1 of section 124.152 of the Revised Code shall be employed at the minimum rate established for the range unless otherwise provided. Employees with qualifications that are beyond the minimum normally required for the position and that are determined by the director to be exceptional may be employed in, or may be transferred or promoted to, a position at an advanced step of the range. Further, in time of a serious labor market condition when it is relatively impossible to recruit employees at the minimum rate for a particular classification, the entrance rate may be set at an advanced step in the range by the director of administrative services. This rate may be limited to geographical regions of the state. Appointments made to an advanced step under the provision regarding exceptional qualifications shall not affect the step assignment of employees already serving. However, anytime the hiring rate of an entire classification is advanced to a higher step, all incumbents of that classification being paid at a step lower than that being used for hiring, shall be advanced beginning at the start of the first pay period thereafter to the new hiring rate, and any time accrued at the lower step will be used to calculate advancement to a succeeding step. If the hiring rate of a classification is increased for only a geographical region of the state, only incumbents who work in that geographical region shall be advanced to a higher step. When an employee in the unclassified

service changes from one state position to another or is appointed to a position in the classified service, or if an employee in the classified service is appointed to a position in the unclassified service, the employee's salary or wage in the new position shall be determined in the same manner as if the employee were an employee in the classified service. When an employee in the unclassified service who is not eligible for step increases is appointed to a classification in the classified service under which step increases are provided, future step increases shall be based on the date on which the employee last received a pay increase. If the employee has not received an increase during the previous year, the date of the appointment to the classified service shall be used to determine the employee's annual step advancement eligibility date. In reassigning any employee to a classification resulting in a pay range increase or to a new pay range as a result of a promotion, an increase pay range adjustment, or other classification change resulting in a pay range increase, the director shall assign such employee to the step in the new pay range that will provide an increase of approximately four per cent if the new pay range can accommodate the increase. When an employee is being assigned to a classification or new pay range as the result of a class plan change, if the employee has completed a probationary period, the employee shall be placed in a step no lower than step two of the new pay range. If the employee has not completed a probationary period, the employee may be placed in step one of the new pay range. Such new salary or wage shall become effective on such date as the director determines.

(F) If employment conditions and the urgency of the work require such action, the director of administrative services may, upon the application of a department head, authorize payment at any rate established within the range for the class of work, for work of a casual or intermittent nature or on a project basis. Payment at such rates shall not be made to the same individual for more than three calendar months in any one calendar year. Any such action shall be subject to the approval of the director of budget and management as to the availability of funds. This section and sections 124.14 and 124.152 of the Revised Code do not repeal any authority of any department or public official to contract with or fix the compensation of professional persons who may be employed temporarily for work of a casual nature or for work on a project basis.

(G)(1) Except as provided in divisions (G)(2) and (3) of this section, each state employee paid in accordance with schedule B of this section or schedule E-1 of section 124.152 of the Revised Code shall be eligible for advancement to succeeding steps in the range for the employee's class or grade according to the schedule established in this division. Beginning on the first day of the pay period within which the employee completes the prescribed probationary period in the employee's classification with the state, each employee shall receive an automatic salary adjustment equivalent to the next higher step within the pay range for the employee's class or grade.

Except as provided in divisions (G)(2) and (3) of this section, each employee paid in accordance with schedule E-1 of section 124.152 of the Revised Code shall be eligible to advance to the next higher step until the employee reaches the top step in the range for the employee's class or grade, if the employee has maintained satisfactory performance in accordance with criteria established by the employee's appointing authority. Those step advancements shall not occur more frequently than once in any twelve-month period.

When an employee is promoted, the step entry date shall be set to account for a probationary period. When an employee is reassigned to a higher pay range, the step entry date shall be set to



allow an employee who is not at the highest step of the range to receive a step advancement one year from the reassignment date. Step advancement shall not be affected by demotion. A promoted employee shall advance to the next higher step of the pay range on the first day of the pay period in which the required probationary period is completed. Step advancement shall become effective at the beginning of the pay period within which the employee attains the necessary length of service. Time spent on authorized leave of absence shall be counted for this purpose.

If determined to be in the best interest of the state service, the director of administrative services may, either statewide or in selected agencies, adjust the dates on which annual step advancements are received by employees paid in accordance with schedule E-1 of section 124.152 of the Revised Code.

(2)(a) There shall be a moratorium on annual step advancements under division (G)(1) of this section beginning June 21, 2009, through June 20, 2011. Step advancements shall resume with the pay period beginning June 21, 2011. Upon the resumption of step advancements, there shall be no retroactive step advancements for the period the moratorium was in effect. The moratorium shall not affect an employee's performance evaluation schedule.

An employee who begins a probationary period before June 21, 2009, shall advance to the next step in the employee's pay range at the end of probation, and then become subject to the moratorium. An employee who is hired, promoted, or reassigned to a higher pay range between June 21, 2009, through June 20, 2011, shall not advance to the next step in the employee's pay range until the next anniversary of the employee's date of hire, promotion, or reassignment that occurs on or after June 21, 2011.

(b) The moratorium under division (G)(2)(a) of this section shall apply to the employees of the secretary of state, the auditor of state, the treasurer of state, and the attorney general, who are subject to this section unless the secretary of state, the auditor of state, the treasurer of state, or the attorney general decides to exempt the office's employees from the moratorium and so notifies the director of administrative services in writing on or before July 1, 2009.

(3) Employees in intermittent positions shall be employed at the minimum rate established for the pay range for their classification and are not eligible for step advancements.

(H) Employees in appointive managerial or professional positions paid in accordance with schedule C of this section or schedule E-2 of section 124.152 of the Revised Code may be appointed at any rate within the appropriate pay range. This rate of pay may be adjusted higher or lower within the respective pay range at any time the appointing authority so desires as long as the adjustment is based on the employee's ability to successfully administer those duties assigned to the employee. Salary adjustments shall not be made more frequently than once in any six-month period under this provision to incumbents holding the same position and classification.

(I) When an employee is assigned to duty outside this state, the employee may be compensated, upon request of the department head and with the approval of the director of administrative services, at a rate not to exceed fifty per cent in excess of the employee's current base rate for the period of time spent on that duty.

(J) Unless compensation for members of a board or commission is otherwise specifically provided by law, the director of administrative services shall establish the rate and method of payment for members of boards and commissions pursuant to the pay schedules listed in section

124.152 of the Revised Code.

(K) Regular full-time employees in positions assigned to classes within the instruction and education administration series under the job classification plans of the director of administrative services, except certificated employees on the instructional staff of the state school for the blind or the state school for the deaf, whose positions are scheduled to work on the basis of an academic year rather than a full calendar year, shall be paid according to the pay range assigned by the applicable job classification plan, but only during those pay periods included in the academic year of the school where the employee is located.

(1) Part-time or substitute teachers or those whose period of employment is other than the full academic year shall be compensated for the actual time worked at the rate established by this section.

(2) Employees governed by this division are exempt from sections 124.13 and 124.19 of the Revised Code.

(3) Length of service for the purpose of determining eligibility for step advancements as provided by division (G) of this section and for the purpose of determining eligibility for longevity pay supplements as provided by division (E) of section 124.181 of the Revised Code shall be computed on the basis of one full year of service for the completion of each academic year.

(L) The superintendent of the state school for the deaf and the superintendent of the state school for the blind shall, subject to the approval of the superintendent of public instruction, carry out both of the following:

(1) Annually, between the first day of April and the last day of June, establish for the ensuing fiscal year a schedule of hourly rates for the compensation of each certificated employee on the instructional staff of that superintendent's respective school constructed as follows:

(a) Determine for each level of training, experience, and other professional qualification for which an hourly rate is set forth in the current schedule, the per cent that rate is of the rate set forth in such schedule for a teacher with a bachelor's degree and no experience. If there is more than one such rate for such a teacher, the lowest rate shall be used to make the computation.

(b) Determine which six city, local, and exempted village school districts with territory in Franklin county have in effect on, or have adopted by, the first day of April for the school year that begins on the ensuing first day of July, teacher salary schedules with the highest minimum salaries for a teacher with a bachelor's degree and no experience;

(c) Divide the sum of such six highest minimum salaries by ten thousand five hundred sixty;

(d) Multiply each per cent determined in division (L)(1)(a) of this section by the quotient obtained in division (L)(1)(c) of this section;

(e) One hundred five per cent of each product thus obtained shall be the hourly rate for the corresponding level of training, experience, or other professional qualification in the schedule for the ensuing fiscal year.

(2) Annually, assign each certificated employee on the instructional staff of the superintendent's respective school to an hourly rate on the schedule that is commensurate with the employee's training, experience, and other professional qualifications.

If an employee is employed on the basis of an academic year, the employee's annual salary shall be calculated by multiplying the employee's assigned hourly rate times one thousand seven hundred sixty. If an employee is not employed on the basis of an academic year, the employee's

annual salary shall be calculated in accordance with the following formula:

(a) Multiply the number of days the employee is required to work pursuant to the employee's contract by eight;

(b) Multiply the product of division (L)(2)(a) of this section by the employee's assigned hourly rate.

Each employee shall be paid an annual salary in biweekly installments. The amount of each installment shall be calculated by dividing the employee's annual salary by the number of biweekly installments to be paid during the year.

Sections 124.13 and 124.19 of the Revised Code do not apply to an employee who is paid under this division.

As used in this division, "academic year" means the number of days in each school year that the schools are required to be open for instruction with pupils in attendance. Upon completing an academic year, an employee paid under this division shall be deemed to have completed one year of service. An employee paid under this division is eligible to receive a pay supplement under division (L)(1), (2), or (3) of section 124.181 of the Revised Code for which the employee qualifies, but is not eligible to receive a pay supplement under division (L)(4) or (5) of that section. An employee paid under this division is eligible to receive a pay supplement under division (L)(6) of section 124.181 of the Revised Code for which the employee qualifies, except that the supplement is not limited to a maximum of five per cent of the employee's regular base salary in a calendar year.

(M) Division (A) of this section does not apply to "exempt employees," as defined in section 124.152 of the Revised Code, who are paid under that section.

Notwithstanding any other provisions of this chapter, when an employee transfers between bargaining units or transfers out of or into a bargaining unit, the director of administrative services shall establish the employee's compensation and adjust the maximum leave accrual schedule as the director deems equitable.

**Sec. 124.152.** (A)(1) Except as provided in divisions (A)(2) and (3) of this section, each exempt employee shall be paid a salary or wage in accordance with schedule E-1 or schedule E-2 of division (B) of this section.

(2) Each exempt employee who holds a position in the unclassified civil service pursuant to division (A)(26) or (30) of section 124.11 of the Revised Code may be paid a salary or wage in accordance with schedule E-1, schedule E-1 for step eight only, or schedule E-2 of division (B) or (C) of this section, as applicable.

(3)(a) Except as provided in division (A)(3)(b), (c), or (e) of this section, each exempt employee who was paid a salary or wage at step 7 in the employee's pay range on June 28, 2003, in accordance with the applicable schedule E-1 of former section 124.152 of the Revised Code and who continued to be so paid on June 29, 2003, shall be paid a salary or wage in the corresponding pay range in schedule E-1 for step eight only of division (C) of this section for as long as the employee remains in the position the employee held as of July 1, 2003. Such an employee is not eligible to be paid a salary or wage at step 7 in schedule E-1 for as long as the employee remains in the position the employee held as of July 1, 2003.

(b) If an exempt employee who is being paid a salary or wage in accordance with schedule E-1 for step eight only of division (C) of this section moves to another position, the employee shall not

receive a salary or wage for that position or any other position in the future in accordance with that schedule.

(c) Each exempt employee who is being paid a salary or wage in pay range 12 through 16 of schedule E-1 for step eight only of division (C) of this section shall be paid a salary or wage in the corresponding pay range in schedule E-1 of division (B) of this section as follows:

(i) If the employee has maintained satisfactory performance in accordance with the criteria established by the employee's appointing authority within the twelve-month period immediately before July 1, 2016, at step 8 beginning on the first day of the pay period that includes July 1, 2016;

(ii) If the employee has not maintained satisfactory performance in accordance with the criteria established by the employee's appointing authority within the twelve-month period immediately before July 1, 2016, but attains satisfactory performance in accordance with the criteria before July 1, 2017, at step 8 beginning on the first day of the pay period that follows the date the employee attains satisfactory performance;

(iii) If the employee does not attain satisfactory performance in accordance with the criteria established by the employee's appointing authority before July 1, 2017, at the employee's base rate of pay as of the pay period immediately before the pay period that includes July 1, 2017, beginning on the first day of the pay period that includes July 1, 2017.

(d) If an employee described in division (A)(3)(c)(iii) of this section attains satisfactory performance in accordance with the criteria established by the employee's appointing authority, the employee shall be paid a salary or wage at step 8 in the corresponding pay range in schedule E-1 of division (B) of this section beginning on the first day of the pay period that follows the date the employee attains satisfactory performance.

(e) Except as otherwise provided in this chapter, each exempt employee who is being paid a salary or wage in range 17 or 18 of schedule E-1 for step eight only of division (C) of this section on the first day of the pay period that includes July 1, 2016, shall not receive an increase in salary or wage until the maximum rate of pay for step 6 of the employee's corresponding pay range in schedule E-1 of division (B) of this section exceeds the employee's base rate of pay as of July 1, 2016.

(f) An employee who becomes eligible to receive an increase in salary or wage under division (A)(3)(e) of this section shall be paid a salary or wage in step 6 of the employee's corresponding pay range in schedule E-1 of division (B) of this section.

(B)(1) Beginning on the first day of the pay period that includes July 1, 2015, each exempt employee who must be paid in accordance with schedule E-1 or schedule E-2 of this section shall be paid a salary or wage in accordance with the following schedule of rates:

Schedule E-1

Pay Ranges and Step Values

	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
Range							
1 Hourly	10.32	10.78	11.24	11.73			

	Annually	21466	22422	23379	24398		
2	Hourly	12.52	13.05	13.61	14.21		
	Annually	26042	27144	28309	29557		
3	Hourly	13.11	13.70	14.31	14.93		
	Annually	27269	28496	29765	31054		
4	Hourly	13.77	14.38	15.07	15.74		
	Annually	28642	29910	31346	32739		
5	Hourly	14.44	15.10	15.74	16.43		
	Annually	30035	31408	32739	34174		
6	Hourly	15.22	15.85	16.55	17.23		
	Annually	31658	32968	34424	35838		
7	Hourly	16.16	16.76	17.45	18.06	18.76	
	Annually	33613	34861	36296	37565	39021	
8	Hourly	17.08	17.84	18.60	19.44	20.37	
	Annually	35526	37107	38688	40435	42370	
9	Hourly	18.22	19.17	20.11	21.12	22.19	
	Annually	37898	39874	41829	43930	46155	
10	Hourly	19.67	20.74	21.85	23.11	24.35	
	Annually	40914	43139	45448	48069	50648	
11	Hourly	21.41	22.66	23.97	25.33	26.76	
	Annually	44533	47133	49858	52686	55661	
12	Hourly	23.62	24.95	26.29	27.75	29.29	30.88 33.66
	Annually	49130	51896	54683	57720	60923	64230 70013

13	Hourly	26.04	27.47	28.98	30.52	32.24	33.99	37.04
	Annually	54163	57138	60278	63482	67059	70699	77043
14	Hourly	28.63	30.25	31.88	33.62	35.52	37.50	40.88
	Annually	59550	62920	66310	69930	73882	78000	85030
15	Hourly	31.45	33.22	35.10	37.02	39.08	41.23	44.94
	Annually	65416	69098	73008	77002	81286	85758	93475
16	Hourly	34.68	36.60	38.61	40.78	43.03	45.49	49.58
	Annually	72134	76128	80309	84822	89502	94619	103126
17	Hourly	38.21	40.32	42.58	44.93	47.43	50.08	
	Annually	79477	83866	88566	93454	98654	104166	
18	Hourly	42.11	44.44	46.95	49.52	52.26	55.19	
	Annually	87589	92435	97656	103002	108701	114795	

An employee who is being paid a salary or wage at step 6 on July 1, 2015, is eligible to move to step 7 beginning on the first day of the pay period that immediately follows July 1, 2015, if the employee has maintained satisfactory performance in accordance with the criteria established by the employee's appointing authority and the employee has not advanced a step within the twelve-month period immediately preceding the advancement to step 7.

#### Schedule E-2

Range		Minimum	Maximum
41	Hourly	16.23	41.62
	Annually	33758	86570
42	Hourly	17.89	45.96
	Annually	37211	95597
43	Hourly	19.70	50.62
	Annually	40976	105290

44	Hourly	21.73	55.30
	Annually	45198	115024
45	Hourly	24.01	60.38
	Annually	49941	137248
46	Hourly	26.43	65.98
	Annually	54974	137238
47	Hourly	29.14	72.01
	Annually	60611	149781
48	Hourly	32.14	78.58
	Annually	66851	163446
49	Hourly	35.44	84.84
	Annually	73715	176467

(2) Beginning on the first day of the pay period that includes July 1, 2016, each exempt employee who must be paid in accordance with schedule E-1 or schedule E-2 of this section shall be paid a salary or wage in accordance with the following schedule of rates:

Schedule E-1

Pay Ranges and Step Values

		Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
Range									
1	Hourly	10.58	11.05	11.52	12.02				
	Annually	22006	22984	23962	25002				
2	Hourly	12.83	13.38	13.95	14.57				
	Annually	26686	27830	29016	30306				
3	Hourly	13.44	14.04	14.67	15.30				
	Annually	27955	29203	30514	31824				

4	Hourly	14.11	14.74	15.45	16.13				
	Annually	29349	30659	32136	33550				
5	Hourly	14.80	15.48	16.13	16.84				
	Annually	30784	32198	33550	35027				
6	Hourly	15.60	16.25	16.96	17.66				
	Annually	32448	33800	35277	36733				
7	Hourly	16.56	17.18	17.89	18.51	19.23			
	Annually	34445	35734	37211	38501	39998			
8	Hourly	17.51	18.29	19.07	19.93	20.88			
	Annually	36421	38043	39666	41454	43430			
9	Hourly	18.68	19.65	20.61	21.65	22.74			
	Annually	38854	40872	42869	45032	47299			
10	Hourly	20.16	21.26	22.40	23.69	24.96			
	Annually	41933	44221	46592	49275	51917			
11	Hourly	21.95	23.23	24.57	25.96	27.43			
	Annually	45656	48318	51106	53997	57054			
12	Hourly	24.21	25.57	26.95	28.44	30.02	31.65	32.95	34.50
	Annually	50357	53186	56056	59155	62442	65832	68536	71760
13	Hourly	26.69	28.16	29.70	31.28	33.05	34.84	36.26	37.97
	Annually	55515	58573	61776	65062	68744	72467	75421	78978
14	Hourly	29.35	31.01	32.68	34.46	36.41	38.44	40.01	41.90
	Annually	61048	64501	67974	71677	75733	79955	83221	87152
15	Hourly	32.24	34.05	35.98	37.95	40.06	42.26	43.99	46.06



	Annually	67059	70824	74838	78936	83325	87901	91499	95805
16	Hourly	35.55	37.52	39.58	41.80	44.11	46.63	48.53	50.82
	Annually	73944	78042	82326	86944	91749	96990	100942	105706
17	Hourly	39.17	41.33	43.64	46.05	48.62	51.33		
	Annually	81474	85966	90771	95784	101130	106766		
18	Hourly	43.16	45.55	48.12	50.76	53.57	56.57		
	Annually	89773	94744	100090	105581	111426	117666		

Schedule E-2

Range		Minimum	Maximum
41	Hourly	16.23	42.66
	Annually	33758	88733
42	Hourly	17.89	47.11
	Annually	37211	97989
43	Hourly	19.70	51.89
	Annually	40976	107931
44	Hourly	21.73	56.68
	Annually	45198	117894
45	Hourly	24.01	61.89
	Annually	49941	128731
46	Hourly	26.43	67.63
	Annually	54974	140670
47	Hourly	29.14	73.81
	Annually	60611	153525

48	Hourly	32.14	80.54
	Annually	66851	167523
49	Hourly	35.44	86.96
	Annually	73715	180877

(3) Beginning on the first day of the pay period that includes July 1, 2017, each exempt employee who must be paid in accordance with schedule E-1 or schedule E-2 of this section shall be paid a salary or wage in accordance with the following schedule of rates:

Schedule E-1

Pay Ranges and Step Values

		Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
Range									
1	Hourly	10.84	11.33	11.81	12.32				
	Annually	22547	23566	24565	25626				
2	Hourly	13.15	13.71	14.30	14.93				
	Annually	27352	28517	29744	31054				
3	Hourly	13.78	14.39	15.04	15.68				
	Annually	28662	29931	31283	32614				
4	Hourly	14.46	15.11	15.84	16.53				
	Annually	30077	31429	32947	34382				
5	Hourly	15.17	15.87	16.53	17.26				
	Annually	31554	33010	34382	35901				
6	Hourly	15.99	16.66	17.38	18.10				
	Annually	33259	34653	36150	37648				
7	Hourly	16.97	17.61	18.34	18.97	19.71			
	Annually	35298	36629	38147	39458	40997			

8	Hourly	17.95	18.75	19.55	20.43	21.40			
	Annually	37336	39000	40664	42494	44512			
9	Hourly	19.15	20.14	21.13	22.19	23.31			
	Annually	39832	41891	43950	46155	48485			
10	Hourly	20.66	21.79	22.96	24.28	25.58			
	Annually	42973	45323	47757	50502	53206			
11	Hourly	22.50	23.81	25.18	26.61	28.12			
	Annually	46800	49525	52374	55349	58490			
12	Hourly	24.82	26.21	27.62	29.15	30.77	32.44	33.77	35.36
	Annually	51626	54517	57450	60632	64002	67475	70242	73549
13	Hourly	27.36	28.86	30.44	32.06	33.88	35.71	37.17	38.92
	Annually	56909	60029	63315	66685	70470	74277	77314	80954
14	Hourly	30.08	31.79	33.50	35.32	37.32	39.40	41.02	42.95
	Annually	62566	66123	69680	73466	77626	81952	85322	89336
15	Hourly	33.05	34.90	36.88	38.90	41.06	43.32	45.09	47.21
	Annually	68744	72592	76710	80912	85405	90106	93787	98197
16	Hourly	36.44	38.46	40.57	42.85	45.21	47.80	49.75	52.09
	Annually	75795	79997	84386	89128	94037	99424	103480	108347
17	Hourly	40.15	42.36	44.73	47.20	49.84	52.61		
	Annually	83512	88109	93038	98176	103667	109429		
18	Hourly	44.24	46.69	49.32	52.03	54.91	57.98		
	Annually	92019	97115	102586	108222	114213	120598		

Range		Minimum	Maximum
41	Hourly	16.23	43.73
	Annually	33758	90958
42	Hourly	17.89	48.29
	Annually	37211	100443
43	Hourly	19.70	53.19
	Annually	40976	110635
44	Hourly	21.73	58.10
	Annually	45198	120848
45	Hourly	24.01	63.44
	Annually	49941	131955
46	Hourly	26.43	69.32
	Annually	54974	144186
47	Hourly	29.14	75.66
	Annually	60611	157373
48	Hourly	32.14	82.55
	Annually	66851	171704
49	Hourly	35.44	89.13
	Annually	73715	185390

(C)(1) Beginning on the first day of the pay period that includes July 1, 2015, each exempt employee who must be paid in accordance with salary schedule E-1 for step eight only shall be paid a salary or wage in accordance with the following schedule of rates:

Schedule E-1 for Step Eight Only

Pay Ranges and Step Values

Range

12	Hourly 32.60	
	Annually	67808
13	Hourly 35.85	
	Annually	74568
14	Hourly 39.53	
	Annually	82222
15	Hourly 43.50	
	Annually	90480
16	Hourly 47.98	
	Annually	99798
17	Hourly 52.84	
	Annually	109907
18	Hourly 58.22	
	Annually	121098

(2) Beginning on the first day of the pay period that includes July 1, 2016, each exempt employee who must be paid in accordance with schedule E-1 for step eight only shall be paid a salary or wage in accordance with the following schedule of rates:

Schedule E-1 for Step Eight Only

Pay Ranges and Step Values

	Range	
12	Hourly 33.42	
	Annually	69514
13	Hourly 36.75	
	Annually	76440
14	Hourly 40.52	

	Annually	84282
15	Hourly 44.59	
	Annually	92747
16	Hourly 49.18	
	Annually	102294
17	Hourly 54.16	
	Annually	112653
18	Hourly 59.68	
	Annually	124134

(D) As used in this section:

(1) "Exempt employee" means a permanent full-time or permanent part-time employee paid directly by warrant of the director of budget and management whose position is included in the job classification plan established under division (A) of section 124.14 of the Revised Code but who is not considered a public employee for the purposes of Chapter 4117. of the Revised Code. "Exempt employee" also includes a permanent full-time or permanent part-time employee of the secretary of state, auditor of state, treasurer of state, or attorney general who has not been placed in an appropriate bargaining unit by the state employment relations board.

(2) "Base rate of pay" means the rate of pay established under schedule E-1 or schedule E-1 for step eight only of this section, plus the supplement provided under division (E) of section 124.181 of the Revised Code, plus any supplements enacted into law that are added to schedule E-1 or schedule E-1 for step eight only of this section.

**Sec. 124.181.** (A) Except as provided in divisions (M) and (P) of this section, any employee paid in accordance with schedule B of section 124.15 or schedule E-1 or schedule E-1 for step eight only of section 124.152 of the Revised Code is eligible for the pay supplements provided in this section upon application by the appointing authority substantiating the employee's qualifications for the supplement and with the approval of the director of administrative services except as provided in division (E) of this section.

(B)(1) In computing any of the pay supplements provided in this section for an employee paid in accordance with schedule B of section 124.15 of the Revised Code, the classification salary base shall be the minimum hourly rate of the pay range, provided in that section, in which the employee is assigned at the time of computation.

(2) In computing any of the pay supplements provided in this section for an employee paid in accordance with schedule E-1 of section 124.152 of the Revised Code, the classification salary base shall be the minimum hourly rate of the pay range, provided in that section, in which the employee is assigned at the time of computation.

(3) In computing any of the pay supplements provided in this section for an employee paid in accordance with schedule E-1 for step eight only of section 124.152 of the Revised Code, the classification salary base shall be the minimum hourly rate in the corresponding pay range, provided in schedule E-1 of that section, to which the employee is assigned at the time of the computation.

(C) The effective date of any pay supplement, except as provided in section 124.183 of the Revised Code or unless otherwise provided in this section, shall be determined by the director.

(D) The director shall, by rule, establish standards regarding the administration of this section.

(E)(1) Except as otherwise provided in this division, beginning on the first day of the pay period within which the employee completes five years of total service with the state government or any of its political subdivisions, each employee in positions paid in accordance with schedule B of section 124.15 of the Revised Code or in accordance with schedule E-1 or schedule E-1 for step eight only of section 124.152 of the Revised Code shall receive an automatic salary adjustment equivalent to two and one-half per cent of the classification salary base, to the nearest whole cent. Each employee shall receive thereafter an annual adjustment equivalent to one-half of one per cent of the employee's classification salary base, to the nearest whole cent, for each additional year of qualified employment until a maximum of ten per cent of the employee's classification salary base is reached. The granting of longevity adjustments shall not be affected by promotion, demotion, or other changes in classification held by the employee, nor by any change in pay range for the employee's class or grade. Longevity pay adjustments shall become effective at the beginning of the pay period within which the employee completes the necessary length of service, except that when an employee requests credit for prior service, the effective date of the prior service credit and of any longevity adjustment shall be the first day of the pay period following approval of the credit by the director of administrative services. No employee, other than an employee who submits proof of prior service within ninety days after the date of the employee's hiring, shall receive any longevity adjustment for the period prior to the director's approval of a prior service credit. Time spent on authorized leave of absence shall be counted for this purpose.

(2) An employee who has retired in accordance with the provisions of any retirement system offered by the state and who is employed by the state or any political subdivision of the state on or after June 24, 1987, shall not have prior service with the state or any political subdivision of the state counted for the purpose of determining the amount of the salary adjustment provided under this division.

(3) There shall be a moratorium on employees' receipt under this division of credit for service with the state government or any of its political subdivisions during the period from July 1, 2003, through June 30, 2005. In calculating the number of years of total service under this division, no credit shall be included for service during the moratorium. The moratorium shall apply to the employees of the secretary of state, the auditor of state, the treasurer of state, and the attorney general, who are subject to this section unless the secretary of state, the auditor of state, the treasurer of state, or the attorney general decides to exempt the office's employees from the moratorium and so notifies the director of administrative services in writing on or before July 1, 2003.

If an employee is exempt from the moratorium, receives credit for a period of service during the moratorium, and takes a position with another entity in the state government or any of its political

subdivisions, either during or after the moratorium, and if that entity's employees are or were subject to the moratorium, the employee shall continue to retain the credit. However, if the moratorium is in effect upon the taking of the new position, the employee shall cease receiving additional credit as long as the employee is in the position, until the moratorium expires.

(F) When an exceptional condition exists that creates a temporary or a permanent hazard for one or more positions in a class paid in accordance with schedule B of section 124.15 of the Revised Code or in accordance with schedule E-1 or schedule E-1 for step eight only of section 124.152 of the Revised Code, a special hazard salary adjustment may be granted for the time the employee is subjected to the hazardous condition. All special hazard conditions shall be identified for each position and incidence from information submitted to the director on an appropriate form provided by the director and categorized into standard conditions of: some unusual hazard not common to the class; considerable unusual hazard not common to the class; and exceptional hazard not common to the class.

(1) A hazardous salary adjustment of five per cent of the employee's classification salary base may be applied in the case of some unusual hazardous condition not common to the class for those hours worked, or a fraction of those hours worked, while the employee was subject to the unusual hazard condition.

(2) A hazardous salary adjustment of seven and one-half per cent of the employee's classification salary base may be applied in the case of some considerable hazardous condition not common to the class for those hours worked, or a fraction of those hours worked, while the employee was subject to the considerable hazard condition.

(3) A hazardous salary adjustment of ten per cent of the employee's classification salary base may be applied in the case of some exceptional hazardous condition not common to the class for those hours worked, or a fraction of those hours worked, when the employee was subject to the exceptional hazard condition.

(4) Each claim for temporary hazard pay shall be submitted as a separate payment and shall be subject to an administrative audit by the director as to the extent and duration of the employee's exposure to the hazardous condition.

(G) When a full-time employee whose salary or wage is paid directly by warrant of the director of budget and management and who also is eligible for overtime under the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 207, 213, as amended, is ordered by the appointing authority to report back to work after termination of the employee's regular work schedule and the employee reports, the employee shall be paid for such time. The employee shall be entitled to four hours at the employee's total rate of pay or overtime compensation for the actual hours worked, whichever is greater. This division does not apply to work that is a continuation of or immediately preceding an employee's regular work schedule.

(H) When a certain position or positions paid in accordance with schedule B of section 124.15 of the Revised Code or in accordance with schedule E-1 or schedule E-1 for step eight only of section 124.152 of the Revised Code require the ability to speak or write a language other than English, a special pay supplement may be granted to attract bilingual individuals, to encourage present employees to become proficient in other languages, or to retain qualified bilingual employees. The bilingual pay supplement provided in this division may be granted in the amount of



five per cent of the employee's classification salary base for each required foreign language and shall remain in effect as long as the bilingual requirement exists.

(I) The director of administrative services may establish a shift differential for employees. The differential shall be paid to employees in positions working in other than the regular or first shift. In those divisions or agencies where only one shift prevails, no shift differential shall be paid regardless of the hours of the day that are worked. The director and the appointing authority shall designate which positions shall be covered by this division.

(J) An appointing authority may assign an employee to work in a higher level position for a continuous period of more than two weeks but no more than two years. The employee's pay shall be established at a rate that is approximately four per cent above the employee's current base rate for the period the employee occupies the position, provided that this temporary assignment is approved by the director. Employees paid under this division shall continue to receive any of the pay supplements due them under other divisions of this section based on the step one base rate for their normal classification.

(K) If a certain position, or positions, within a class paid in accordance with schedule B of section 124.15 of the Revised Code or in accordance with schedule E-1 or schedule E-1 for step eight only of section 124.152 of the Revised Code are mandated by state or federal law or regulation or other regulatory agency or other certification authority to have special technical certification, registration, or licensing to perform the functions which are under the mandate, a special professional achievement pay supplement may be granted. This special professional achievement pay supplement shall not be granted when all incumbents in all positions in a class require a license as provided in the classification description published by the department of administrative services; to licensees where no special or extensive training is required; when certification is granted upon completion of a stipulated term of in-service training; when an appointing authority has required certification; or any other condition prescribed by the director.

(1) Before this supplement may be applied, evidence as to the requirement must be provided by the agency for each position involved, and certification must be received from the director as to the director's concurrence for each of the positions so affected.

(2) The professional achievement pay supplement provided in this division shall be granted in an amount up to ten per cent of the employee's classification salary base and shall remain in effect as long as the mandate exists.

(L) Those employees assigned to teaching supervisory, principal, assistant principal, or superintendent positions who have attained a higher educational level than a basic bachelor's degree may receive an educational pay supplement to remain in effect as long as the employee's assignment and classification remain the same.

(1) An educational pay supplement of two and one-half per cent of the employee's classification salary base may be applied upon the achievement of a bachelor's degree plus twenty quarter hours of postgraduate work.

(2) An educational pay supplement of an additional five per cent of the employee's classification salary base may be applied upon achievement of a master's degree.

(3) An educational pay supplement of an additional two and one-half per cent of the employee's classification salary base may be applied upon achievement of a master's degree plus

thirty quarter hours of postgraduate work.

(4) An educational pay supplement of five per cent of the employee's classification salary base may be applied when the employee is performing as a master teacher.

(5) An educational pay supplement of five per cent of the employee's classification salary base may be applied when the employee is performing as a special education teacher.

(6) Those employees in teaching supervisory, principal, assistant principal, or superintendent positions who are responsible for specific extracurricular activity programs shall receive overtime pay for those hours worked in excess of their normal schedule, at their straight time hourly rate up to a maximum of five per cent of their regular base salary in any calendar year.

(M)(1) A state agency, board, or commission may establish a supplementary compensation schedule for those licensed physicians employed by the agency, board, or commission in positions requiring a licensed physician. The supplementary compensation schedule, together with the compensation otherwise authorized by this chapter, shall provide for the total compensation for these employees to range appropriately, but not necessarily uniformly, for each classification title requiring a licensed physician, in accordance with a schedule approved by the state controlling board. The individual salary levels recommended for each such physician employed shall be approved by the director. Notwithstanding section 124.11 of the Revised Code, such personnel are in the unclassified civil service.

(2) The director of administrative services may approve supplementary compensation for the director of health, if the director is a licensed physician, in accordance with a supplementary compensation schedule approved under division (M)(1) of this section or in accordance with another supplementary compensation schedule the director of administrative services considers appropriate. The supplementary compensation shall not exceed twenty per cent of the director of health's base rate of pay.

(N) Notwithstanding sections 117.28, 117.30, 117.33, 117.36, 117.42, and 131.02 of the Revised Code, the state shall not institute any civil action to recover and shall not seek reimbursement for overpayments made in violation of division (E) of this section or division (C) of section 9.44 of the Revised Code for the period starting after June 24, 1987, and ending on October 31, 1993.

(O) Employees of the office of the treasurer of state who are exempt from collective bargaining coverage may be granted a merit pay supplement of up to one and one-half per cent of their step rate. The rate at which this supplement is granted shall be based on performance standards established by the treasurer of state. Any supplements granted under this division shall be administered on an annual basis.

(P) Intermittent employees appointed under section 124.30 of the Revised Code are not eligible for the pay supplements provided by this section.

**Sec. 124.183.**

**Sec. 124.29.**

**Sec. 124.34.** (A) The tenure of every officer or employee in the classified service of the state and the counties, civil service townships, cities, city health districts, general health districts, and city school districts of the state, holding a position under this chapter, shall be during good behavior and efficient service. No officer or employee shall be reduced in pay or position, fined, suspended, or

removed, or have the officer's or employee's longevity reduced or eliminated, except as provided in section 124.32 of the Revised Code, and for incompetency, inefficiency, unsatisfactory performance, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of any policy or work rule of the officer's or employee's appointing authority, violation of this chapter or the rules of the director of administrative services or the commission, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony while employed in the civil service. The denial of a one-time pay supplement or a bonus to an officer or employee is not a reduction in pay for purposes of this section.

This section does not apply to any modifications or reductions in pay or work week authorized by section 124.392, 124.393, or 124.394 of the Revised Code.

An appointing authority may require an employee who is suspended to report to work to serve the suspension. An employee serving a suspension in this manner shall continue to be compensated at the employee's regular rate of pay for hours worked. The disciplinary action shall be recorded in the employee's personnel file in the same manner as other disciplinary actions and has the same effect as a suspension without pay for the purpose of recording disciplinary actions.

A finding by the appropriate ethics commission, based upon a preponderance of the evidence, that the facts alleged in a complaint under section 102.06 of the Revised Code constitute a violation of Chapter 102., section 2921.42, or section 2921.43 of the Revised Code may constitute grounds for dismissal. Failure to file a statement or falsely filing a statement required by section 102.02 of the Revised Code may also constitute grounds for dismissal. The tenure of an employee in the career professional service of the department of transportation is subject to section 5501.20 of the Revised Code.

Conviction of a felony while employed in the civil service is a separate basis for reducing in pay or position, suspending, or removing an officer or employee, even if the officer or employee has already been reduced in pay or position, suspended, or removed for the same conduct that is the basis of the felony. An officer or employee may not appeal to the state personnel board of review or the commission any disciplinary action taken by an appointing authority as a result of the officer's or employee's conviction of a felony. If an officer or employee removed under this section is reinstated as a result of an appeal of the removal, any conviction of a felony that occurs during the pendency of the appeal is a basis for further disciplinary action under this section upon the officer's or employee's reinstatement.

A person convicted of a felony while employed in the civil service immediately forfeits the person's status as a classified employee in any public employment on and after the date of the conviction for the felony. If an officer or employee is removed under this section as a result of being convicted of a felony or is subsequently convicted of a felony that involves the same conduct that was the basis for the removal, the officer or employee is barred from receiving any compensation after the removal notwithstanding any modification or disaffirmance of the removal, unless the conviction for the felony is subsequently reversed or annulled.

Any person removed for conviction of a felony is entitled to a cash payment for any accrued but unused sick, personal, and vacation leave as authorized by law. If subsequently reemployed in the public sector, the person shall qualify for and accrue these forms of leave in the manner specified by

law for a newly appointed employee and shall not be credited with prior public service for the purpose of receiving these forms of leave.

As used in this division, "felony" means any of the following:

- (1) A felony that is an offense of violence as defined in section 2901.01 of the Revised Code;
- (2) A felony that is a felony drug abuse offense as defined in section 2925.01 of the Revised Code;
- (3) A felony under the laws of this or any other state or the United States that is a crime of moral turpitude;
- (4) A felony involving dishonesty, fraud, or theft;
- (5) A felony that is a violation of section 2921.05, 2921.32, or 2921.42 of the Revised Code.

(B) In case of a reduction, a suspension of more than forty work hours in the case of an employee exempt from the payment of overtime compensation, a suspension of more than twenty-four work hours in the case of an employee required to be paid overtime compensation, a fine of more than forty hours' pay in the case of an employee exempt from the payment of overtime compensation, a fine of more than twenty-four hours' pay in the case of an employee required to be paid overtime compensation, or removal, except for the reduction or removal of a probationary employee, the appointing authority shall serve the employee with a copy of the order of reduction, fine, suspension, or removal, which order shall state the reasons for the action.

Within ten days following the date on which the order is served or, in the case of an employee in the career professional service of the department of transportation, within ten days following the filing of a removal order, the employee, except as otherwise provided in this section, may file an appeal of the order in writing with the state personnel board of review or the commission. For purposes of this section, the date on which an order is served is the date of hand delivery of the order or the date of delivery of the order by certified United States mail, whichever occurs first. If an appeal is filed, the board or commission shall forthwith notify the appointing authority and shall hear, or appoint a trial board to hear, the appeal within thirty days from and after its filing with the board or commission. The board, commission, or trial board may affirm, disaffirm, or modify the judgment of the appointing authority. However, in an appeal of a removal order based upon a violation of a last chance agreement, the board, commission, or trial board may only determine if the employee violated the agreement and thus affirm or disaffirm the judgment of the appointing authority.

In cases of removal or reduction in pay for disciplinary reasons, either the appointing authority or the officer or employee may appeal from the decision of the state personnel board of review or the commission, and any such appeal shall be to the court of common pleas of the county in which the appointing authority is located, or to the court of common pleas of Franklin county, as provided by section 119.12 of the Revised Code.

(C) In the case of the suspension for any period of time, or a fine, demotion, or removal, of a chief of police, a chief of a fire department, or any member of the police or fire department of a city or civil service township, who is in the classified civil service, the appointing authority shall furnish the chief or member with a copy of the order of suspension, fine, demotion, or removal, which order shall state the reasons for the action. The order shall be filed with the municipal or civil service township civil service commission. Within ten days following the filing of the order, the chief or member may file an appeal, in writing, with the commission. If an appeal is filed, the commission

shall forthwith notify the appointing authority and shall hear, or appoint a trial board to hear, the appeal within thirty days from and after its filing with the commission, and it may affirm, disaffirm, or modify the judgment of the appointing authority. An appeal on questions of law and fact may be had from the decision of the commission to the court of common pleas in the county in which the city or civil service township is situated. The appeal shall be taken within thirty days from the finding of the commission.

(D) A violation of division (A)(7) of section 2907.03 of the Revised Code is grounds for termination of employment of a nonteaching employee under this section.

(E) The director shall adopt a rule in accordance with Chapter 119. of the Revised Code to define the term "unsatisfactory performance" as it is used in this section with regard to employees in the service of the state.

(F) As used in this section, "last chance agreement" means an agreement signed by both an appointing authority and an officer or employee of the appointing authority that describes the type of behavior or circumstances that, if it occurs, will automatically lead to removal of the officer or employee without the right of appeal to the state personnel board of review or the appropriate commission.

**Sec. 124.382.** (A) As used in this section and sections 124.383, 124.386, 124.387, and 124.388 of the Revised Code:

(1) "Pay period" means the fourteen-day period of time during which the payroll is accumulated, as determined by the director of administrative services.

(2) "Active pay status" means the conditions under which an employee is eligible to receive pay, and includes, but is not limited to, vacation leave, sick leave, personal leave, bereavement leave, and administrative leave.

(3) "No pay status" means the conditions under which an employee is ineligible to receive pay and includes, but is not limited to, leave without pay, leave of absence, and disability leave.

(4) "Disability leave" means the leave granted pursuant to section 124.385 of the Revised Code.

(5) "Full-time permanent employee" means an employee whose regular hours of duty total eighty hours in a pay period in a state agency and whose appointment is not for a limited period of time.

(6) "Base rate of pay" means the rate of pay established under schedule B or C of section 124.15 of the Revised Code or under schedule E-1, schedule E-1 for step eight only, or schedule E-2 of section 124.152 of the Revised Code, plus any supplement provided under section 124.181 of the Revised Code, plus any supplements enacted into law which are added to schedule B or C of section 124.15 of the Revised Code or to schedule E-1, schedule E-1 for step eight only, or schedule E-2 of section 124.152 of the Revised Code.

(7) "Part-time permanent employee" means an employee whose regular hours of duty total less than eighty hours in a pay period in a state agency and whose appointment is not for a limited period of time.

(B) Each full-time permanent and part-time permanent employee whose salary or wage is paid directly by warrant of the director of budget and management shall be credited with sick leave of three and one-tenth hours for each completed eighty hours of service, excluding overtime hours

worked. Sick leave is not available for use until it appears on the employee's earning statement and the compensation described in the earning statement is available to the employee.

(C) Any sick leave credit provided pursuant to division (B) of this section, remaining as of the last day of the pay period preceding the first paycheck the employee receives in December, shall be converted pursuant to section 124.383 of the Revised Code.

(D) Employees may use sick leave, provided a credit balance is available, upon approval of the responsible administrative officer of the employing unit, for absence due to personal illness, pregnancy, injury, exposure to contagious disease that could be communicated to other employees, and illness, injury, or death in the employee's immediate family. When sick leave is used, it shall be deducted from the employee's credit on the basis of absence from previously scheduled work in such increments of an hour and at such a compensation rate as the director of administrative services determines. The appointing authority of each employing unit may require an employee to furnish a satisfactory, signed statement to justify the use of sick leave.

If, after having utilized the credit provided by this section, an employee utilizes sick leave that was accumulated prior to November 15, 1981, compensation for such sick leave used shall be at a rate as the director determines.

(E)(1) The previously accumulated sick leave balance of an employee who has been separated from the public service, for which separation payments pursuant to section 124.384 of the Revised Code have not been made, shall be placed to the employee's credit upon the employee's reemployment in the public service, if the reemployment takes place within ten years of the date on which the employee was last terminated from public service.

(2) The previously accumulated sick leave balance of an employee who has separated from a school district shall be placed to the employee's credit upon the employee's appointment as an unclassified employee of the state department of education, if all of the following apply:

- (a) The employee accumulated the sick leave balance while employed by the school district.
- (b) The employee did not receive any separation payments for the sick leave balance.
- (c) The employee's employment with the department takes place within ten years after the date on which the employee separated from the school district.

(F) An employee who transfers from one public agency to another shall be credited with the unused balance of the employee's accumulated sick leave.

(G) The director of administrative services shall establish procedures to uniformly administer this section. No sick leave may be granted to a state employee upon or after the employee's retirement or termination of employment.

(H) As used in this division, "active payroll" means conditions under which an employee is in active pay status or eligible to receive pay for an approved leave of absence, including, but not limited to, occupational injury leave, disability leave, or workers' compensation.

(1) Employees who are in active payroll status on June 18, 2011, shall receive a one-time credit of additional sick leave in the pay period that begins on July 1, 2011. Full-time employees shall receive the lesser of either a one-time credit of thirty-two hours of additional sick leave or a one-time credit of additional sick leave equivalent to half the hours of personal leave the employee lost during the moratorium established under either division (A) of section 124.386 of the Revised Code or pursuant to a rule of the director of administrative services. Part-time employees shall

receive a one-time credit of sixteen hours of additional sick leave.

(2) Employees who are not in active payroll status due to military leave or an absence taken in accordance with the federal "Family and Medical Leave Act" are eligible to receive the one-time additional sick leave credit.

(3) The one-time additional sick leave credit does not apply to employees of the supreme court, general assembly, legislative service commission, secretary of state, auditor of state, treasurer of state, or attorney general unless the supreme court, general assembly, legislative service commission, secretary of state, auditor of state, treasurer of state, or attorney general participated in the moratorium under division (H) or (I) of section 124.386 of the Revised Code and notifies in writing the director of administrative services on or before June 1, 2011, of the decision to participate in the one-time additional sick leave credit. Written notice under this division shall be signed by the appointing authority for employees of the supreme court, general assembly, or legislative service commission, as the case may be.

**Sec. 124.392.** (A) As used in this section:

(1) "Exempt employee" has the same meaning as in section 124.152 of the Revised Code.

(2) "Fiscal emergency" means a fiscal emergency declared by the governor under section 126.05 of the Revised Code.

(B) The director of administrative services may establish a voluntary cost savings program for exempt employees.

(C) The director of administrative services shall establish a mandatory cost savings program applicable to exempt employees. Subject to division (C)(1) of this section, the program may include, but is not limited to, a loss of pay or loss of holiday pay as determined by the director. The program may be administered differently among exempt employees based on their classifications, appointment categories, appointing authorities, or other relevant distinctions.

(1) Each full-time exempt employee shall participate in the program for a total of eighty hours of mandatory cost savings in both fiscal year 2010 and fiscal year 2011. Each part-time exempt employee shall participate in the program by not receiving holiday pay during both fiscal year 2010 and fiscal year 2011. Each employee of the secretary of state, auditor of state, treasurer of state, and attorney general shall participate in the program unless the secretary of state, auditor of state, treasurer of state, or attorney general decides to exempt the officer's employees from the program and so notifies the director of administrative services in writing on or before July 1, 2009.

After July 1, 2009, the secretary of state, auditor of state, treasurer of state, or attorney general may decide to begin participation in the program for eighty hours or less and shall notify the director of administrative services in writing. The secretary of state, auditor of state, treasurer of state, or attorney general and the director shall mutually agree upon an implementation date.

(2) After June 30, 2011, the director of administrative services, in consultation with the director of budget and management, may implement mandatory cost savings days applicable to exempt employees in the event of a fiscal emergency. Each employee of the secretary of state, auditor of state, treasurer of state, and attorney general shall participate in the mandatory cost savings days unless the secretary of state, auditor of state, treasurer of state, or attorney general decides to exempt the officer's employees from the mandatory cost savings days and so notifies the director of administrative services in the manner the director of administrative services prescribes by rule

adopted under this section.

(D) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to provide for the administration of the voluntary cost savings program and the mandatory cost savings program.

(E) Cost savings days provided pursuant to this section or by a labor-management contract or agreement shall be considered remuneration for purposes of section 4141.31 of the Revised Code.

**Sec. 125.02.** (A) The department of administrative services shall establish contracts for supplies and services, including telephone, other telecommunications, and computer services, for the use of state agencies, and may establish such contracts for the use of any political subdivision as described in division (B) of section 125.04 of the Revised Code, except for the following:

- (1) The adjutant general for military supplies and services;
- (2) The general assembly;
- (3) The judicial branch;
- (4) State institutions of higher education;
- (5) State elected officials as set forth in section 125.041 of the Revised Code;
- (6) The capitol square review and advisory board.

The entities set forth in divisions (A)(1) to (6) of this section may request the department of administrative services' assistance in the procurement of supplies and services for their respective offices and, upon the department's approval, may participate in contracts awarded by the department.

(B) For purchases under division (C) of section 125.05 of the Revised Code, the department shall grant a state agency a release and permit to make the purchase if the department determines that it is not possible or advantageous for the department to make a purchase.

(C) Upon request, the department may grant a blanket release and permit to a state agency for specific purchases. The department may grant the blanket release and permit for a fiscal year or for a biennium as determined by the director of administrative services.

(D) The director of administrative services shall adopt rules regarding circumstances and criteria for obtaining a release and permit under this section. The director of administrative services shall prescribe uniform rules governing forms of specifications, advertisements for proposals, the opening of bids, the making of awards and contracts, and the purchase of supplies and performance of work.

(E) The director may enter into cooperative purchasing agreements to purchase supplies or services with the following:

- (1) The entities set forth in divisions (A)(1) to (5) of this section;
- (2) One or more other states;
- (3) Groups of states;
- (4) The United States or any department, division, or agency of the United States;
- (5) Other purchasing consortia;
- (6) The department of transportation; or
- (7) Any political subdivision of this state described in division (B) of section 125.04 of the Revised Code.

Revised Code.

(F) The United States or any department, division, or agency of the United States, one or more other states, groups of states, other purchasing consortia, or any agency, commission, or



authority established under an interstate compact or agreement may purchase supplies and services from contracts established by the department of administrative services.

(G) Except as provided in section 125.04 of the Revised Code, the department of administrative services shall purchase any policy of insurance, including a surety or fidelity bond, covering officers or employees of a state agency, for which the annual premium is more than one thousand dollars and which the state may procure. The department shall purchase the insurance in conformity with sections 125.04 to 125.15 of the Revised Code. As used in this division, "annual premium" means the total premium for one year for one type of insurance regardless of the number of policies.

**Sec. 125.035.**

**Sec. 125.04.** (A) Except for the requirements of division (B) of this section, section 125.092, and division (B) of section 125.11 of the Revised Code, sections 125.04 to 125.08 and 125.09 to 125.15 of the Revised Code do not apply to or affect state institutions of higher education.

(B)(1) As used in this division:

(a) "Chartered nonpublic school" has the same meaning as in section 3310.01 of the Revised Code.

(b) "Emergency medical service organization" has the same meaning as in section 4765.01 of the Revised Code.

(c) "Governmental agency" means a political subdivision or special district in this state established by or under law, or any combination of these entities; the United States or any department, division, or agency of the United States; one or more other states or groups of states; other purchasing consortia; and any agency, commission, or authority established under an interstate compact or agreement.

(d) "Political subdivision" means any county, township, municipal corporation, school district, conservancy district, township park district, park district created under Chapter 1545. of the Revised Code, regional transit authority, regional airport authority, regional water and sewer district, or port authority. "Political subdivision" also includes any other political subdivision described in the Revised Code that has been approved by the department of administrative services to participate in the department's contracts under this division.

(e) "Private fire company" has the same meaning as in section 9.60 of the Revised Code.

(f) "State institution of higher education" has the meaning defined in section 3345.011 of the Revised Code.

(2) Subject to division (C) of this section, the department of administrative services may permit a state institution of higher education, governmental agency, political subdivision, county board of elections, private fire company, private, nonprofit emergency medical service organization, or chartered nonpublic school to participate in contracts into which the department has entered for the purchase of supplies and services. The department may charge the entity a reasonable fee to cover the administrative costs the department incurs as a result of participation by the entity in such a purchase contract.

A political subdivision desiring to participate in such purchase contracts shall file with the department a certified copy of an ordinance or resolution of the legislative authority or governing board of the political subdivision. The resolution or ordinance shall request that the political

subdivision be authorized to participate in such contracts and shall agree that the political subdivision will be bound by such terms and conditions as the department prescribes and that it will directly pay the vendor under each purchase contract. A board of elections desiring to participate in such purchase contracts shall file with the purchasing authority a written request for inclusion in the program. A private fire company, private, nonprofit emergency medical service organization, or chartered nonpublic school desiring to participate in such purchase contracts shall file with the department a written request for inclusion in the program signed by the chief officer of the company, organization, or chartered nonpublic school. A governmental agency desiring to participate in such purchase contracts shall file with the department a written request for inclusion in the program. A state institution of higher education desiring to participate in such purchase contracts shall file with the department a certified copy of resolution of the board of trustees or similar authorizing body. The resolution shall request that the state institution of higher education be authorized to participate in such contracts.

A request for inclusion shall include an agreement to be bound by such terms and conditions as the department prescribes and to make direct payments to the vendor under each purchase contract.

The department shall include in its annual report, an estimate of the purchases made by state institutions of higher education, governmental agencies, political subdivisions, county boards of elections, private fire companies, private, nonprofit emergency medical service organizations, and chartered nonpublic schools from contracts pursuant to this division. The department may require such entities to file a report with the department, as often as it finds necessary, stating how many such contracts the entities participated in within a specified period of time, and any other information the department requires.

(3) Purchases made by a political subdivision or a county board of elections under this division are exempt from any competitive selection procedures otherwise required by law. No political subdivision shall make any purchase under this division when bids have been received for such purchase by the subdivision, unless such purchase can be made upon the same terms, conditions, and specifications at a lower price under this division.

(C) A political subdivision as defined in division (B) of this section or a county board of elections may purchase supplies or services from another party, including a political subdivision, instead of through participation in contracts described in division (B) of this section if the political subdivision or county board of elections can purchase those supplies or services from the other party upon equivalent terms, conditions, and specifications but at a lower price than it can through those contracts. Purchases that a political subdivision or county board of elections makes under this division are exempt from any competitive selection procedures otherwise required by law. A political subdivision or county board of elections that makes any purchase under this division shall maintain sufficient information regarding the purchase to verify that the political subdivision or county board of elections satisfied the conditions for making a purchase under this division. Nothing in this division restricts any action taken by a county or township as authorized by division (B)(1) of section 9.48 of the Revised Code.

(D) This section does not apply to supplies or services purchased by a state agency directly as provided in section 125.05 of the Revised Code, or to purchases of supplies or services for the

emergency management agency or other state agencies as provided in section 125.061 of the Revised Code.

**Sec. 125.041.** (A) Nothing in sections 125.02, 125.04 to 125.08, 125.12 to 125.16, 125.18, 125.31 to 125.76, or 125.831 of the Revised Code shall be construed as limiting the attorney general, auditor of state, secretary of state, or treasurer of state in any of the following:

(1) Purchases for less than the dollar amounts for the purchase of supplies or services determined under section 125.05 of the Revised Code;

(2) Purchases that equal or exceed the dollar amounts for the purchase of supplies or services determined under section 125.05 of the Revised Code with the approval of the controlling board, if that approval is required by section 127.16 of the Revised Code;

(3) The final determination of the nature or quantity of any purchase of supplies or services under division (B) of section 125.02 or under division (G) of section 125.035 of the Revised Code;

(4) The final determination and disposal of excess and surplus supplies;

(5) The inventory of state property;

(6) The purchase of printing;

(7) Activities related to information technology development and use;

(8) The fleet management program.

(B) Nothing in this section shall be construed as preventing the attorney general, auditor of state, secretary of state, or treasurer of state from complying with or participating in any aspect of Chapter 125. of the Revised Code through the department of administrative services.

**Sec. 125.05.** Except as provided in division (D) of this section, no state agency shall purchase any supplies or services except as provided in divisions (A) to (C) of this section.

(A) A state agency may, without competitive selection, make any purchase of supplies or services that cost less than fifty thousand dollars after complying with divisions (A) to (E) of section 125.035 of the Revised Code. The agency may make the purchase directly or may make the purchase from or through the department of administrative services, whichever the agency determines. The agency shall adopt written procedures consistent with the department's purchasing procedures and shall use those procedures when making purchases under this division.

Section 127.16 of the Revised Code does not apply to purchases made under this division.

(B) A state agency shall make purchases of supplies and services that cost fifty thousand dollars or more through the department of administrative services and the process provided in section 125.035 of the Revised Code, unless the department grants a waiver under ~~divisions~~ division (D) or (E) of that section and a release and permit under division (G) of that section.

(C) An agency that has been granted a release and permit under division (G) of section 125.035 of the Revised Code to make a purchase may make the purchase without competitive selection if after making the purchase the cumulative purchase threshold as computed under division (E) of section 127.16 of the Revised Code would:

(1) Be exceeded and the controlling board approves the purchase;

(2) Not be exceeded and the department of administrative services approves the purchase.

(D) If the department of education or the Ohio education computer network determines that it can purchase software services or supplies for specified school districts at a price less than the price for which the districts could purchase the same software services or supplies for themselves, the

department or network shall certify that fact to the department of administrative services and, acting as an agent for the specified school districts, shall make that purchase without following the provisions in divisions (A) to (D) of this section.

**Sec. 125.061.**

**Sec. 125.07.** (A) In accordance with rules the director shall adopt under Chapter 119. of the Revised Code, the director of administrative services may make purchases by competitive sealed bid. The competitive sealed bid, at a minimum, shall contain a detailed description of the supplies or services to be purchased, terms and conditions of the sale, and any other information the director considers to be necessary for the intended purchase. Competitive sealed bids shall be awarded as provided in section 125.11 of the Revised Code.

(B) The department of administrative services, in making a purchase by competitive sealed bid, shall give notice in the following manner:

(1) The department shall advertise the intended purchases by notice posted for the benefit of competing persons producing or dealing in the supplies or services to be purchased. The notice may be in any electronic form the director of administrative services considers appropriate to sufficiently notify competing persons of the intended purchases.

(2) The notice required under this division shall include the time and place where bids will be accepted and opened, or, when bids are made in a reverse auction, the time when bids will be accepted; the conditions under which bids will be received; the terms of the proposed purchases; and an itemized list of the supplies or services to be purchased and the estimated quantities or amounts of them.

(3) The notice required under this division shall be posted the number of days preceding the day when the bids will be opened or accepted that the director determines sufficient to enable interested bidders to prepare their bids.

**Sec. 125.08.** ~~(A)~~ Any person who is certified by the equal employment opportunity coordinator of the department of administrative services in accordance with the rules adopted under division (B)(1) of section 123.151 of the Revised Code as a minority business enterprise may have that person's name placed on a special minority business enterprise notification list to be used in connection with contracts awarded under section 125.081 of the Revised Code. The minority business enterprise notification list shall be used for bidding on contracts set aside for minority business enterprises only.

**Sec. 125.081.** (A) From the purchases that the department of administrative services is required by law to make through competitive selection, the director of administrative services shall select a number of such purchases, the aggregate value of which equals approximately fifteen per cent of the estimated total value of all such purchases to be made in the current fiscal year. The director shall set aside the purchases selected for competition only by minority business enterprises, as defined in division (E)(1) of section 122.71 of the Revised Code. The competitive selection procedures for such purchases set aside shall be the same as for all other purchases the department is required to make through competitive selection, except that only minority business enterprises certified by the equal employment opportunity coordinator of the department of administrative services in accordance with the rules adopted under division (B)(1) of section 123.151 of the Revised Code and listed by the director under section 125.08 of the Revised Code shall be qualified to

compete.

(B) To the extent that any agency of the state, other than the department of administrative services, the legislative and judicial branches, boards of elections, and the adjutant general, is authorized to make purchases, the agency shall set aside a number of purchases, the aggregate value of which equals approximately fifteen per cent of the aggregate value of such purchases for the current fiscal year for competition by minority business enterprises only. The procedures for such purchases shall be the same as for all other such purchases made by the agency, except that only minority business enterprises certified by the equal employment opportunity coordinator in accordance with rules adopted under division (B)(1) of section 123.151 of the Revised Code shall be qualified to compete.

(C) In the case of purchases set aside under division (A) or (B) of this section, if no bid is submitted by a minority business enterprise, the purchase shall be made according to usual procedures. The contracting agency shall from time to time set aside such additional purchases for which only minority business enterprises may compete, as are necessary to replace those purchases previously set aside for which no minority business enterprises bid and to ensure that, in any fiscal year, the aggregate amount of contracts awarded to minority business enterprises will equal approximately fifteen per cent of the total amount of contracts awarded by the agency.

(D) The provisions of this section shall not preclude any minority business enterprise from competing for any other state purchases that are not specifically set aside for minority business enterprises.

(E) No funds of any state agency shall be expended in any fiscal year for any purchase for which competitive selection is required, until the director of the department of administrative services certifies to the equal employment opportunity coordinator, the clerk of the senate, and the clerk of the house of representatives of the general assembly that approximately fifteen per cent of the aggregate amount of the projected expenditure for such purchases in the fiscal year has been set aside as provided for in this section.

(F) Any person who intentionally misrepresents self as owning, controlling, operating, or participating in a minority business enterprise for the purpose of obtaining contracts, subcontracts, or any other benefits under this section shall be guilty of theft by deception as provided for in section 2913.02 of the Revised Code.

**Sec. 125.082.** (A) When purchasing equipment, materials, or supplies, the general assembly; the offices of all elected state officers; all departments, boards, offices, commissions, agencies, institutions, including, without limitation, state-supported institutions of higher education, and other instrumentalities of this state; the supreme court; all courts of appeals; and all courts of common pleas, may purchase recycled products in accordance with rules adopted by the director of administrative services.

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

**Sec. 125.10.** (A) The department of administrative services may require that all competitive sealed bids, competitive sealed proposals, and bids received in a reverse auction be accompanied by a performance bond or other financial assurance acceptable to the director of administrative services, in

the sum and with the sureties it prescribes, payable to the state, and conditioned that the person submitting the bid or proposal, if that person's bid or proposal is accepted, will faithfully execute the terms of the contract and promptly make deliveries of the supplies purchased.

(B) A sealed copy of each competitive sealed bid or competitive sealed proposal shall be filed with the department prior to the time specified in the notice for opening of the bids or proposals. All competitive sealed bids and competitive sealed proposals shall be publicly opened in the office of the department at the time specified in the notice. A representative of the auditor of state shall be present at the opening of all competitive sealed bids and competitive sealed proposals, and shall certify the opening of each competitive sealed bid and competitive sealed proposal. No competitive sealed bid or competitive sealed proposal shall be considered valid unless it is so certified.

**Sec. 125.11.** (A) Subject to division (B) of this section, contracts awarded pursuant to a reverse auction under section 125.072 of the Revised Code or pursuant to competitive sealed bidding, including contracts awarded under section 125.081 of the Revised Code, shall be awarded to the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code. When the contract is for meat products as defined in section 918.01 of the Revised Code or poultry products as defined in section 918.21 of the Revised Code, only those bids received from vendors under inspection of the United States department of agriculture or who are licensed by the Ohio department of agriculture shall be eligible for acceptance. The department of administrative services may accept or reject any or all bids in whole or by items, except that when the contract is for services or products available from a qualified nonprofit agency pursuant to sections 125.60 to 125.6012 or 4115.31 to 4115.35 of the Revised Code, the contract shall be awarded to that agency.

(B) Prior to awarding a contract under division (A) of this section, the department of administrative services or the state agency responsible for evaluating a contract for the purchase of products shall evaluate the bids received according to the criteria and procedures established pursuant to divisions (C)(1) and (2) of section 125.09 of the Revised Code for determining if a product is produced or mined in the United States and if a product is produced or mined in this state. The department or other state agency shall first consider bids that offer products that have been or that will be produced or mined in the United States. From among the remaining bids, the department or other state agency shall select the lowest responsive and responsible bid, in accordance with section 9.312 of the Revised Code, from among the bids that offer products that have been produced or mined in this state where sufficient competition can be generated within this state to ensure that compliance with these requirements will not result in an excessive price for the product or acquiring a disproportionately inferior product.

(C) Division (B) of this section applies to contracts for which competitive bidding is waived by the controlling board.

(D) Division (B) of this section does not apply to the purchase by the division of liquor control of spirituous liquor.

(E) The director of administrative services shall publish in the form of a model act for use by counties, townships, municipal corporations, or any other political subdivision described in division (B) of section 125.04 of the Revised Code, a system of preferences for products mined and produced in this state and in the United States and for Ohio-based contractors. The model act shall reflect substantial equivalence to the system of preferences in purchasing and public improvement

contracting procedures under which the state operates pursuant to this chapter and section 153.012 of the Revised Code. To the maximum extent possible, consistent with the Ohio system of preferences in purchasing and public improvement contracting procedures, the model act shall incorporate all of the requirements of the federal "Buy America Act," 47 Stat. 1520 (1933), 41 U.S.C. 10a to 10d, as amended, and the rules adopted under that act.

Before and during the development and promulgation of the model act, the director shall consult with appropriate statewide organizations representing counties, townships, and municipal corporations so as to identify the special requirements and concerns these political subdivisions have in their purchasing and public improvement contracting procedures. The director shall promulgate the model act by rule adopted pursuant to Chapter 119. of the Revised Code and shall revise the act as necessary to reflect changes in this chapter or section 153.012 of the Revised Code.

The director shall make available copies of the model act, supporting information, and technical assistance to any township, county, or municipal corporation wishing to incorporate the provisions of the act into its purchasing or public improvement contracting procedure.

**Sec. 125.112.** (A) As used in this section:

(1) "Agency" means a department created under section 121.02 of the Revised Code.

(2) "Entity" means, whether for profit or nonprofit, a corporation, association, partnership, limited liability company, sole proprietorship, or other business entity. "Entity" does not include an individual who receives state assistance that is not related to the individual's business.

(3)(a) "State award" means a contract awarded by the state costing over twenty-five thousand dollars.

(b) "State award" does not include compensation received as an employee of the state or any state financial assistance and expenditure received from the general assembly or any legislative agency, any court or judicial agency, the secretary of state, auditor of state, treasurer of state, or attorney general and their respective offices.

(B) The department of administrative services shall establish and maintain a single searchable web site, accessible by the public at no cost, that includes all of the following information for each state award:

(1) The name of the entity receiving the award;

(2) The amount of the award;

(3) Information on the award, the agency or other instrumentality of the state that is providing the award, and the commodity code;

(4) Any other relevant information determined by the department of administrative services.

(C) The department of administrative services may consult with other state agencies in the development, establishment, operation, and support of the web site required by division (B) of this section. State awards shall be posted on the web site within thirty days after being made. The department of administrative services shall provide an opportunity for public comment as to the utility of the web site required by division (B) of this section and any suggested improvements.

(D) The web site required by division (B) of this section shall be fully operational not later than one year after December 30, 2008, and shall include information on state awards made in fiscal year 2008 and thereafter. It shall also provide an electronic link to the daily journals of the senate and house of representatives.

(E) The director of administrative services shall submit to the general assembly an annual report regarding the implementation of the web site established pursuant to division (B) of this section. The report shall include data regarding the usage of the web site and any public comments on the utility of the site, including recommendations for improving data quality and collection. The director shall post each report on the web site.

(F) Each agency awarding a grant to an entity in fiscal year 2008 and thereafter shall establish and maintain a separate web site listing the name of the entity receiving each grant, the grant amount, information on each grant, and any other relevant information determined by the department of administrative services. Each agency shall provide the link to such a web site to the department of administrative services within a reasonable time after December 30, 2008, and shall thereafter update its web site within thirty days of awarding a new grant. Not later than one year after December 30, 2008, the department of administrative services shall establish and maintain a separate web site, accessible to the public at no cost, which contains the links to the agency web sites required by this division.

(G) At the end of the closeout year, the attorney general shall determine the extent to which an entity has complied with the terms and conditions, including performance metrics, of a state award for economic development received by that entity. As necessary, the agency that makes and administers the state award for economic development shall assist the attorney general with that determination. The attorney general shall submit to the general assembly pursuant to section 101.68 of the Revised Code an annual report regarding the level of compliance of each such entity with the terms and conditions, including performance metrics, of their state awards for economic development. When the attorney general determines appropriate and to the extent that an entity that receives or has received a state award for economic development does not comply with a performance metric that is specified in the terms and conditions of the award, the attorney general shall pursue against and from that entity such remedies and recoveries as are available under law. For purposes of this division, "~~Closeout~~-closeout year" means the calendar year by which an entity that receives a state award for economic development must comply with a performance metric specified in the terms and conditions of the award. "State award for economic development" means state financial assistance and expenditure in any of the following forms: grants, subgrants, loans, awards, cooperative agreements, or other similar and related forms of financial assistance and contracts, subcontracts, purchase orders, task orders, delivery orders, or other similar and related transactions. "State award for economic development" does not include compensation received as an employee of the state or any state financial assistance and expenditure received from the general assembly or any legislative agency, any court or judicial agency, the secretary of state, auditor of state, treasurer of state, or attorney general and their respective offices.

(H) Nothing in this section shall be construed as requiring the disclosure of information that is not a public record under section 149.43 of the Revised Code.

**Sec. 125.13.** (A) As used in this section:

(1) "Emergency medical service organization" has the same meaning as in section 4765.01 of the Revised Code.

(2) "Private fire company" has the same meaning as in section 9.60 of the Revised Code.

(B) Whenever a state agency has excess or surplus supplies, it shall notify the director of



administrative services. On forms provided by the director, the state agency shall furnish to the director a list of its excess and surplus supplies, including the location of the supplies and whether the supplies are currently in the agency's control.

(C) Upon receipt of notification and at no cost to the state agency, the director of administrative services shall make arrangements for their disposition and shall take immediate control of a state agency's excess and surplus supplies, except for the following excess and surplus supplies:

(1) Excess or surplus supplies that have a value below the minimum value that the director establishes for excess and surplus supplies under division (F) of this section;

(2) Excess or surplus supplies that the director has authorized an agency to donate to a governmental agency, including, but not limited to, public schools and surplus computers and computer equipment transferred to a public school under division (G) of this section;

(3) Excess or surplus supplies that an agency trades in as full or partial payment when purchasing a replacement item;

(4) Hazardous property;

(5) Excess or surplus supplies that the director has authorized to be part of an interagency transfer;

(6) Excess or surplus supplies that are donated under division (H) of this section.

(D) The director shall inventory excess and surplus supplies in the director's control and post on a public web site a list of the supplies available for acquisition. The director may have the supplies repaired. The director shall not charge a fee for the collection or transportation of excess and surplus supplies.

(E) The director may do any of the following:

(1) Dispose of declared surplus or excess supplies in the director's control by sale, lease, donation, or transfer. If the director does so, the director shall dispose of those supplies in any of the following manners:

(a) To state agencies or by interagency trade;

(b) To state-supported or state-assisted institutions of higher education;

(c) To tax-supported agencies, municipal corporations, or other political subdivisions of this state, private fire companies, or private, nonprofit emergency medical service organizations;

(d) To nonpublic elementary and secondary schools chartered by the state board of education under section 3301.16 of the Revised Code;

(e) To a nonprofit organization that is both exempt from federal income taxation under 26 U.S.C. 501(a) and (c)(3) and that receives funds from the state or has a contract with the state;

(f) To the general public by auction, sealed bid, sale, or negotiation.

(2) If the director has attempted to dispose of any declared surplus or excess motor vehicle that does not exceed four thousand five hundred dollars in value pursuant to divisions (E)(1)(a) to (c) of this section, donate the motor vehicle to a nonprofit organization exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3) for the purpose of meeting the transportation needs of participants in the Ohio works first program established under Chapter 5107. of the Revised Code and participants in the prevention, retention, and contingency program established under Chapter 5108. of the Revised Code. The director may not donate a motor vehicle furnished to the state

highway patrol to a nonprofit organization pursuant to this division.

(F) The director may adopt rules governing the sale, lease, or transfer of surplus and excess supplies in the director's control by public auction, sealed bid, sale, or negotiation, except that no employee of the disposing agency shall be allowed to purchase, lease, or receive any such supplies. The director may dispose of declared surplus or excess supplies, including motor vehicles, in the director's control as the director determines proper if such supplies cannot be disposed of pursuant to division (E) of this section. The director shall by rule establish a minimum value for excess and surplus supplies and prescribe procedures for a state agency to follow in disposing of excess and surplus supplies in its control that have a value below the minimum value established by the director.

(G) The director of administrative services may authorize any state agency to transfer surplus computers and computer equipment that are not needed by other state agencies directly to an accredited public school within the state. The computers and computer equipment may be repaired or refurbished prior to transfer. The state agency may charge a service fee to the public schools for the property not to exceed the direct cost of repairing or refurbishing it. The state agency shall deposit such funds into the account used for repair or refurbishment.

(H) Excess and surplus supplies of food shall be exempt from this section and may be donated directly to nonprofit food pantries and institutions without notification to the director of administrative services.

**Sec. 125.27.** (A) There is hereby created in the state treasury the building improvement fund. The fund shall retain the interest earned.

(B) The fund shall consist of any money transferred or deposited into the fund pursuant to section 125.28 of the Revised Code.

(C) The fund shall be used for major maintenance or improvements required in facilities maintained by the department of administrative services.

**Sec. 125.28.** (A) The director of administrative services shall determine the reimbursable cost of space in state-owned or state-leased facilities and shall collect reimbursements for that cost.

(B) The director may provide building maintenance services and tenant improvement services to any state agency and may collect reimbursements for the cost of providing those services.

(C) All money collected by the department of administrative services, for operating expenses of facilities owned or maintained by the department, or for tenant improvement services, shall be deposited into the state treasury to the credit of the building management fund, which is hereby created. All money collected for depreciation and related costs shall be deposited into the building improvement fund created under section 125.27 of the Revised Code or deposited into the building management fund and then transferred by the director of budget and management to the building improvement fund.

**Sec. 125.31.** (A) The department of administrative services shall have supervision of all public printing except as follows:

(1) Printing for the general assembly shall be the sole responsibility of the clerk of the senate and the clerk of the house of representatives unless the clerk of the senate or the clerk of the house of representatives chooses either of the options specified in section 101.523 or 101.524 of the Revised Code.

(2) Printing for the Ohio arts council shall be under the supervision of the council.

(3) Printing for the capitol square review and advisory board shall be under the supervision of the board.

(4) Printing for state-supported institutions of higher education shall be under the supervision of the department of purchasing of each such institution or the department or officer within each institution that performs the functions of a department of purchasing.

(B) The department of administrative services shall determine, except as otherwise specifically provided by law, the number of copies to be printed of each publication or document, the source of reproduction, the manner of binding, quality of paper, the general kind, size, and spacing of type to be used in all reports, publications, bulletins, documents, or pamphlets printed at public expense.

The department shall not use its authority to curtail the release of public information by any elected state official.

(C) For the purposes of sections 125.31 to 125.76 of the Revised Code, all functions, powers, and duties assigned to the department of administrative services are considered to be assigned to the division of state printing within the department of administrative services.

**Sec. 125.36.** If the department of administrative services is of the opinion that any bids or proposals should be rejected in the interest of the state, it may reject any or all bids or proposals and advertise the invitation to bid or the request for proposals a second time. If after the second advertisement for bids or proposals the department determines that any or all bids or proposals are not in the interest of the state, it may purchase the various printing goods and services required at the lowest price for which such printing goods and services can be obtained in the open market.

**Sec. 125.38.** If required by the department of administrative services, a bid or proposal for a term contract for printing goods and services, including final printed product, shall be accompanied by a bond to the state, in a sum specified in the invitation to bid or request for proposals, executed by the offeror, with either one corporate or two personal sureties, satisfactory to the department, conditioned for the performance of the contract awarded the offeror, and for the payment to the state, by the offeror, as liquidated damages, of any excess of cost over the bid or proposal of such offeror, which the state may be obliged to pay for such printing goods and services by reason of the failure of the offeror to complete the contract. A bid or proposal unaccompanied by such bond shall not be considered, and this bond shall be void if no contract is awarded to the offeror.

**Sec. 125.39.** If the contractor fails to furnish printing goods and services according to the terms of the contract, the department of administrative services shall purchase the required printing goods and services on the open market after notifying the contractor in writing of such action, and the cost in excess of the contract shall be collected from the contractor or the posted bond, if a bond was provided.

**Sec. 125.42.** (A) No agency, officer, board, or commission, except the clerk of the senate and the clerk of the house of representatives, shall print or cause to be printed at the public expense, any report, bulletin, document, or pamphlet, unless such report, bulletin, document, or pamphlet is first submitted to, and the printing thereof approved by, the department of administrative services. If the department approves the printing, it shall determine the form of such printing and the number of copies.

If such approval is given, the department shall cause the same to be printed and bound as

provided by sections 125.49, 125.51, and 125.56 of the Revised Code, except as otherwise provided by section 125.45 of the Revised Code; and when printed, such publications or forms shall be delivered to the ordering officer, board, commission, or department, or sold at a price not to exceed the total cost.

(B) The department of administrative services annually shall set a maximum cost per page and a maximum total cost for the printing by any board, commission, council, or other public body of the state of any annual report or any other report that it is required by law to produce. No board, commission, council, or other public body of the state shall expend or incur the expenditure of any amount in excess of these maximum amounts without the prior approval of the department. This division does not apply to the general assembly or any court.

**Sec. 125.43.** The department of administrative services shall see that any printing services are executed in accordance with law. The printing of all publications approved by the department of administrative services shall be ordered through it and it shall see that the number of copies ordered is received from the printer and delivered to the proper department.

**Sec. 125.45.** (A) The department of administrative services shall maintain facilities to perform office reproduction services for all boards, commissions, or departments. Upon written application to the department of administrative services, permission may be granted to a board, commission, or department to perform such services outside the central facility and such permission shall state the extent of the services which the department, board, or commission shall perform.

(B) Office reproduction services are restricted to duplicating equipment not larger than seventeen by twenty-two inches. Not to exceed five thousand press impressions shall be produced of any such order except that up to one thousand production copies may be produced of any item consisting of multiple pages and except that over five thousand, but not more than ten thousand, press impressions may be produced if the director of administrative services determines that there is an emergency due to the timing of service delivery or another factor that may cause financial hardship to the state.

(C) No state agency, other than the department of administrative services, shall perform printing or office reproduction services for political subdivisions.

**Sec. 125.49.** Each bid or proposal for state printing shall state specifically the price at which the offeror will undertake to provide the finished product as specified in the invitation to bid or request for proposals, including the necessary binding covered by such bid or proposal.

**Sec. 125.51.** After careful examination and computation of each bid, within thirty days the department of administrative services shall award the contract for such printing to the lowest responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, having proper facilities to ensure prompt performance of the work. No contract shall be awarded unless it contains an agreement for the completion of the work within the time fixed by the department, but the time so fixed may be extended by the department if deemed in the best interest of the state.

**Sec. 125.58.** The department of administrative services shall promptly notify each successful offeror of the acceptance of the offeror's bid or proposal for state printing. If such offeror fails to execute the contract because of death or other cause, or if the offeror fails to execute the work required by the contract in a proper manner and with reasonable promptness, or the contract is abandoned, or its execution is temporarily suspended, the department may enter into a contract with

another person for the prompt execution of the work for the lowest price which may be obtained. Before any work is relet in consequence of the misconduct or default of the contractor, the department shall give the contractor written notice thereof. The department of administrative services may set a daily penalty charge for late orders, provided the penalty schedule and amount are stated in the invitation to bid or request for proposals for the printing.

**Sec. 125.601.** The director of administrative services shall establish the office of procurement from community rehabilitation programs within the department of administrative services. The director shall designate an employee of the department to serve as administrator of the office.

**Sec. 125.607.** (A) Before purchasing any supply or service, a governmental ordering office shall determine, in compliance with section 125.035 of the Revised Code, whether the supply or service is on the procurement list maintained by the office of procurement from community rehabilitation programs. If the supply or service is on the list at an established fair market price, the government ordering office shall purchase it from the qualified nonprofit agency or approved agent at that price.

(B) If the supply or service is on the procurement list but a fair market price has not been established, the government ordering office shall attempt to negotiate an agreement with one or more of the listed qualified nonprofit agencies or approved agents. The office of procurement from community rehabilitation programs may accept as fair market price an agreement negotiated between the government ordering office and a qualified nonprofit agency or approved agent.

(C) If an agreement is not successfully negotiated, the office may establish a fair market price, or it may release a government ordering office from the requirements of this section.

(D) A purchase under divisions (A) to (C) of this section is not subject to any competitive selection or competitive bidding requirements, notwithstanding any other provision of law.

(E) The department of administrative services has the authority to structure or regulate competition among qualified nonprofit agencies for the overall benefit of the program.

**Sec. 125.609.** The department of administrative services, on its own or pursuant to a request from a government ordering office, may release a government ordering office from compliance with sections 125.60 to 125.6012 of the Revised Code. If the department determines that compliance is not possible or not advantageous, or if conditions prescribed in rules as may be adopted under section 125.603 of the Revised Code for granting a release are met, the department may grant a release. The release shall be in writing, and shall specify the supplies or services to which it applies, the period of time during which it is effective, and the reason for which it is granted.

**Sec. 125.76.** All printing and binding for the state, not authorized by sections 125.43 to 125.71 or section 3345.10 of the Revised Code, except for maps and printing that is the sole responsibility of the clerk of the senate or the clerk of the house of representatives, shall be subject to such sections so far as practical, and whether provided for by law or resolution of the general assembly the department of administrative services shall advertise for bids or proposals and let contracts therefor as provided in such sections.

**Sec. 125.901.** (A) There is hereby established the Ohio geographically referenced information program council within the department of administrative services to coordinate the property owned by the state. The department of administrative services shall provide administrative support for the council.

(B) The council shall consist of the following fifteen members:

- (1) The state chief information officer, or the officer's designee, who shall serve as the council chair;
- (2) The director of natural resources, or the director's designee;
- (3) The director of transportation, or the director's designee;
- (4) The director of environmental protection, or the director's designee;
- (5) The director of development services, or the director's designee;
- (6) The treasurer of state, or the treasurer of state's designee;
- (7) The attorney general, or the attorney general's designee;
- (8) The chancellor of higher education or the chancellor's designee;
- (9) The chief of the division of oil and gas resources management in the department of natural resources or the chief's designee;
- (10) The director of public safety or the director's designee;
- (11) The executive director of the county auditors' association or the executive director's designee;
- (12) The executive director of the county commissioners' association or the executive director's designee;
- (13) The executive director of the county engineers' association or the executive director's designee;
- (14) The executive director of the Ohio municipal league or the executive director's designee;
- (15) The executive director of the Ohio townships association or the executive director's designee.

(C) Members of the council shall serve without compensation.

**Sec. 126.32.** (A) Any officer of any state agency may authorize reimbursement for travel, including the costs of transportation, for lodging, and for meals to any person who is interviewing for a position that is classified in pay range 13 or above in schedule E-1 or schedule E-1 for step eight only, or is classified in schedule E-2, of section 124.152 of the Revised Code.

(B) If a person is appointed to a position listed in section 121.03 of the Revised Code, to the position of chairperson of the industrial commission, adjutant general, chancellor of the Ohio board of regents, superintendent of public instruction, chairperson of the public utilities commission of Ohio, or director of the state lottery commission, to a position holding a fiduciary relationship to the governor, to a position of an appointing authority of the department of mental health and addiction services, developmental disabilities, or rehabilitation and correction, to a position of superintendent in the department of youth services, or to a position under section 122.05 of the Revised Code, and if that appointment requires a permanent change of residence, the appropriate state agency may reimburse the person for the person's actual and necessary expenses, including the cost of in-transit storage of household goods and personal effects, of moving the person and members of the person's immediate family residing in the person's household, and of moving their household goods and personal effects, to the person's new location.

Until that person moves the person's permanent residence to the new location, but not for a period that exceeds thirty consecutive days, the state agency may reimburse the person for the person's temporary living expenses at the new location that the person has incurred on behalf of the

person and members of the person's immediate family residing in the person's household. In addition, the state agency may reimburse that person for the person's travel expenses between the new location and the person's former residence during this period for a maximum number of trips specified by rule of the director of budget and management, but the state agency shall not reimburse the person for travel expenses incurred for those trips by members of the person's immediate family. With the prior written approval of the director, the maximum thirty-day period for temporary living expenses may be extended for a person appointed to a position under section 122.05 of the Revised Code.

The director of development services may reimburse a person appointed to a position under section 122.05 of the Revised Code for the person's actual and necessary expenses of moving the person and members of the person's immediate family residing in the person's household back to the United States and may reimburse a person appointed to such a position for the cost of storage of household goods and personal effects of the person and the person's immediate family while the person is serving outside the United States, if the person's office outside the United States is the person's primary job location.

(C) All reimbursement under division (A) or (B) of this section shall be made in the manner, and at rates that do not exceed those, provided by rule of the director of budget and management in accordance with section 111.15 of the Revised Code. Reimbursements may be made under division (B) of this section directly to the persons who incurred the expenses or directly to the providers of goods or services the persons receive, as determined by the director of budget and management.

**Sec. 128.021.** (A) Not later than January 1, 2014, and in accordance with Chapter 119. of the Revised Code, the steering committee shall adopt rules that establish technical and operational standards for public safety answering points eligible to receive disbursements under section 128.55 of the Revised Code. The rules shall incorporate industry standards and best practices for wireless 9-1-1 services. Public safety answering points shall comply with the standards not later than two years after the effective date of the rules adopting the standards.

(B) Not later than one year after ~~the effective date of this amendment~~ September 29, 2015, and in accordance with Chapter 119. of the Revised Code, the steering committee shall conduct an assessment of the operational standards for public safety answering points developed under division (A) of this section and revise the standards as necessary to ensure that the operational standards contain the following:

(1) Policies to ensure that public safety answering point personnel prioritize life-saving questions in responding to each call to a 9-1-1 system established under this chapter;

(2) A requirement that all public safety answering point personnel complete proper training or provide proof of prior training to give instructions regarding emergency situations.

**Sec. 128.40.** There is hereby created within the department of administrative services the 9-1-1 program office, headed by an administrator in the unclassified civil service pursuant to division (A) (9) of section 124.11 of the Revised Code. The administrator shall be appointed by and serve at the pleasure of the director of administrative services and shall report directly to the state chief information officer. The program office shall oversee administration of the wireless 9-1-1 government assistance fund, the wireless 9-1-1 program fund, and the next generation 9-1-1 fund.

**Sec. 128.54.** (A)(1) For the purpose of receiving, distributing, and accounting for amounts received from the wireless 9-1-1 charges imposed under section 128.42 of the Revised Code, the

following funds are created in the state treasury:

- (a) The wireless 9-1-1 government assistance fund;
- (b) The wireless 9-1-1 administrative fund;
- (c) The wireless 9-1-1 program fund;
- (d) The next generation 9-1-1 fund.

(2) Amounts remitted under section 128.46 of the Revised Code shall be paid to the treasurer of state for deposit as follows:

(a) Ninety-seven per cent to the wireless 9-1-1 government assistance fund. All interest earned on the wireless 9-1-1 government assistance fund shall be credited to the fund.

(b) One per cent to the wireless 9-1-1 administrative fund;

(c) Two per cent to the 9-1-1 program fund.

(3) The tax commissioner shall use the wireless 9-1-1 administrative fund to defray the costs incurred in carrying out this chapter.

(4) The steering committee shall use the 9-1-1 program fund to defray the costs incurred by the steering committee in carrying out this chapter.

(5) Annually, the tax commissioner, after paying administrative costs under division (A)(3) of this section, shall transfer any excess remaining in the wireless 9-1-1 administrative fund to the next generation 9-1-1 fund, created under this section.

(B) At the direction of the steering committee, the tax commissioner shall transfer the funds remaining in the wireless 9-1-1 government assistance fund to the credit of the next generation 9-1-1 fund. All interest earned on the next generation 9-1-1 fund shall be credited to the fund.

(C) From the wireless 9-1-1 government assistance fund, the director of budget and management shall, as funds are available, transfer to the tax refund fund, created under section 5703.052 of the Revised Code, amounts equal to the refunds certified by the tax commissioner under division (D) of section 128.47 of the Revised Code.

**Sec. 128.55.** (A)(1) The tax commissioner, not later than the last day of each month, shall disburse moneys from the wireless 9-1-1 government assistance fund, plus any accrued interest on the fund, to each county treasurer.

(a) If there are sufficient funds in the wireless 9-1-1 government assistance fund, each county treasurer shall receive the same amount distributed to that county by the public utilities commission in the corresponding calendar month in 2013.

(b) If the funds available are insufficient to make the distributions as provided in division (A)(1)(a) of this section, each county's share shall be reduced in proportion to the amounts received in the corresponding calendar month in 2013, until the total amount to be distributed to the counties is equivalent to the amount available in the wireless 9-1-1 government assistance fund. Any shortfall in distributions resulting from insufficient funds from a previous month shall be remedied in the following month.

(2) The tax commissioner shall disburse moneys from the next generation 9-1-1 fund in accordance with the guidelines established under section 128.022 of the Revised Code.

(B) Immediately upon receipt by a county treasurer of a disbursement under division (A) of this section, the county shall disburse, in accordance with the allocation formula set forth in the final plan, the amount the county so received to any other subdivisions in the county and any regional



councils of governments in the county that pay the costs of a public safety answering point providing wireless enhanced 9-1-1 under the plan.

(C) Nothing in this chapter affects the authority of a subdivision operating or served by a public safety answering point of a 9-1-1 system or a regional council of governments operating a public safety answering point of a 9-1-1 system to use, as provided in the final plan for the system or in an agreement under section 128.09 of the Revised Code, any other authorized revenue of the subdivision or the regional council of governments for the purposes of providing basic or enhanced 9-1-1.

**Sec. 128.57.** Except as otherwise provided in section 128.571 of the Revised Code:

(A) A countywide 9-1-1 system receiving a disbursement under section 128.55 of the Revised Code shall provide countywide wireless enhanced 9-1-1 in accordance with this chapter beginning as soon as reasonably possible after receipt of the first disbursement or, if that service is already implemented, shall continue to provide such service. Except as provided in divisions (B), (C), and (E) of this section, a disbursement shall be used solely for the purpose of paying either or both of the following:

(1) Any costs of designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining the necessary data, hardware, software, and trunking required for the public safety answering point or points of the 9-1-1 system to provide wireless enhanced 9-1-1, which costs are incurred before or on or after May 6, 2005, and consist of such additional costs of the 9-1-1 system over and above any costs incurred to provide wireline 9-1-1 or to otherwise provide wireless enhanced 9-1-1. Annually, up to twenty-five thousand dollars of the disbursements received on or after January 1, 2009, may be applied to data, hardware, and software that automatically alerts personnel receiving a 9-1-1 call that a person at the subscriber's address or telephone number may have a mental or physical disability, of which that personnel shall inform the appropriate emergency service provider. On or after the provision of technical and operational standards pursuant to section 128.021 of the Revised Code, a regional council of governments operating a public safety answering point or a subdivision shall consider the standards before incurring any costs described in this division.

(2) Any costs of training the staff of the public safety answering point or points to provide wireless enhanced 9-1-1, which costs are incurred before or on or after May 6, 2005.

(B) A subdivision or a regional council of governments that certifies to the steering committee that it has paid the costs described in divisions (A)(1) and (2) of this section and is providing countywide wireless enhanced 9-1-1 may use disbursements received under section 128.55 of the Revised Code to pay any of its personnel costs of one or more public safety answering points providing countywide wireless enhanced 9-1-1.

(C) After receiving its July 2013 disbursement under division (A) of section 128.55 of the Revised Code as that division existed prior to the amendments to that division by H.B. 64 of the 131st general assembly, a regional council of governments operating a public safety answering point or a subdivision may use any remaining balance of disbursements it received under that division, as it existed prior to the amendments to it by H.B. 64 of the 131st general assembly, to pay any of its costs of providing countywide wireless 9-1-1, including the personnel costs of one or more public safety answering points providing that service.

(D) The costs described in divisions (A), (B), (C), and (E) of this section may include any such costs payable pursuant to an agreement under division (J) of section 128.03 of the Revised Code.

(E)(1) No disbursement to a countywide 9-1-1 system for costs of a public safety answering point shall be made from the wireless 9-1-1 government assistance fund or the next generation 9-1-1 fund unless the public safety answering point meets the standards set by rule of the steering committee under section 128.021 of the Revised Code.

(2) The steering committee shall monitor compliance with the standards and shall notify the tax commissioner to suspend disbursements to a countywide 9-1-1 system that fails to meet the standards. Upon receipt of this notification, the commissioner shall suspend disbursements until the commissioner is notified of compliance with the standards.

(F) The auditor of state may audit and review each county's expenditures of funds received from the wireless 9-1-1 government assistance fund to verify that the funds were used in accordance with the requirements of this chapter.

**Sec. 131.025.**

**Sec. 131.09.** In addition to the undertakings or security provided for in sections 135.01 to 135.40 of the Revised Code, the treasurer of a subdivision or county may accept first mortgages, upon unencumbered real estate located in this state, provided the amount owing on such mortgages at the time tendered as security is double the excess of the amount of public moneys to be at the time so deposited, over and above any portion of such moneys as is then insured by the federal deposit insurance corporation, federal savings and loan insurance corporation, or any other agency or instrumentality of the federal government. The amount owing on each mortgage at the time tendered as security shall not exceed eighty per cent of the then value of the real estate. Upon the deposit of such security, the treasurer shall require the financial institution to submit an affidavit stating that no payment on a mortgage has been more than two months past due at any time during the two-year period preceding the date the public moneys are deposited. At such time, the treasurer shall also require an institution to submit an affidavit stating that any structures on the mortgaged real estate are insured by an authorized company in an amount not less than the amount owing on each mortgage at the time tendered as security, that coverage has been obtained in favor of the institution by the named authorized company, and that the institution has obtained a mortgage impairment policy which assures that such insurance will continue for the period that the public moneys are deposited with the institution. The value of such real estate shall be determined separately for land and structures thereon by valuation made under oath by two resident freeholders of this state who are conversant with the real estate values of the county in which the real estate is located or made and certified under oath by an appraiser as being in conformity with the appraisal requirements imposed on an institution by any agency or instrumentality of the federal government. If such determination has been made earlier than a period of three months prior to the time of the deposit of public moneys, such determination shall be updated to reflect the value of the real estate within such three-month period. There shall be deposited with the mortgage the opinion of an attorney licensed to practice in this state, which opinion shall certify that the mortgage is a first lien upon the premises mortgaged, or the title shall be guaranteed by a company operating under sections 1735.01 to 1735.04 of the Revised Code or insured by a company operating under Chapter 3953. of the Revised Code.

If any mortgage tendered as security is paid in full or if the mortgagor becomes past due for six months to the financial institution while it acts as a public depository and that mortgage has been assigned as security for such public moneys, the financial institution shall replace such mortgage with another in compliance with this section. Default by the financial institution as a public depository under this section is to be carried out in accordance with division (F) of section 135.18 of the Revised Code.

**Sec. 131.15.** (A) Any depositor enumerated in section 131.11 of the Revised Code shall make ample provisions for the safekeeping of hypothecated securities. The interest thereon, when paid, shall be turned over to the bank or trust company if it is not in default. The depositor may make provisions for the exchange and release of securities and the substitution of other securities or of an undertaking therefor except in those cases where the public depository has deposited eligible securities with a trustee for safekeeping.

(B) When the public depository has deposited eligible securities described in division (D)(1) of section 135.18 of the Revised Code with a trustee for safekeeping, the public depository may at any time substitute or exchange eligible securities described in division (D)(1) of section 135.18 of the Revised Code having a current market value equal to or greater than the current market value of the securities then on deposit and for which they are to be substituted or exchanged, without specific authorization from the depositor of any substitution or exchange.

(C) When the public depository has deposited eligible securities described in division (D)(2) to (9) of section 135.18 of the Revised Code with a trustee for safekeeping, the public depository may at any time substitute or exchange eligible securities having a current market value equal to or greater than the current market value of the securities then on deposit and for which they are to be substituted or exchanged without specific authorization of any depositor of any such substitution or exchange only if:

(1) The depositor has authorized the public depository to make such substitutions or exchanges on a continuing basis during a specified period without prior approval of each substitution or exchange. Such authorization may be effected by the depositor sending to the trustee a written notice stating that substitution may be effected on a continuing basis during a specified period that shall not extend beyond the end of the period of designation during which the notice is given. "Period of designation" as used in this section means the period under section 135.12 of the Revised Code for the award of inactive funds of the subdivision of which the depositor is an officer or employee. The trustee may rely upon such notice and upon the period of authorization stated therein and upon the period of designation stated therein.

(2) No continuing authorization for substitution has been given by the depositor, the public depository notifies the depositor and the trustee of an intended substitution or exchange, and the depositor fails to object to the trustee as to the eligibility or market value of the securities being substituted within ten calendar days after the date appearing on the notice of proposed substitution. The notice to the depositor and to the trustee shall be given in writing and delivered personally or by certified mail with a return receipt requested. The trustee may assume in any case that the notice has been delivered to the depositor. In order for objections of the depositor to be effective, receipt of the objections must be acknowledged in writing by the trustee.

(3) The depositor gives written authorization for a substitution or exchange of specific

securities.

(D) The public depository shall notify the depositor of any substitution or exchange under division (C)(1) or (2) of this section. If the depository designates a trustee qualified under section 135.18 of the Revised Code to act as such for the safekeeping of securities, the depositor shall accept the written receipt of the designated trustee, describing the securities that have been deposited with the trustee by the public depository, as and for a hypothecation of such securities and issue to the depository the depositor's written acknowledgment to that effect, keeping a copy thereof in the depositor's office. Thereupon, all such securities pledged and deposited with the trustee are deemed hypothecated and deposited with the depositor, for all the purposes of sections 131.13 to 131.16 of the Revised Code. The trustee shall hold the securities for the account of the depositor and the depository as their respective rights to and interests in such securities under said sections appear and are asserted by written notice to or demand upon the trustee.

Notwithstanding the fact that a public depository is required to pledge eligible securities in certain amounts to secure deposits of public moneys, a trustee shall have no duty or obligation to determine the eligibility, market value, or face value of any securities deposited with the trustee by a public depository. This applies in all situations including, without limitation, a substitution or exchange of securities.

**Sec. 131.34.** (A) No moneys shall be transferred between funds or between state agencies on an intrastate transfer voucher, or by any other procedure, unless such a transfer is a payment for goods or services or a service subscription or unless such a transfer is required or authorized by law.

(B)(1) Any state agency that has provided goods or services or a service subscription to another state agency may certify to the director of budget and management both of the following:

(a) That the goods or services have been delivered or that the service subscription has been initiated;

(b) The amount that is due for the goods and services or the service subscription.

(2) A providing agency may make such certification only if it does not receive payment from the receiving agency within thirty days after:

(a) Delivering the goods or services or initiating the service subscription;

(b) Submitting an invoice requesting payment for the goods and services or the service subscription.

(C) If the director determines that all or part of the certified amount should have been paid by the receiving agency and that the receiving agency has an unobligated balance in an appropriation for the payment, the director may transfer the amount that should have been paid from the appropriate fund of the receiving agency to the appropriate fund of the providing agency on an intrastate transfer voucher.

(D) For the purposes of this section, "service subscription" means an ongoing service provided to a state agency by another state agency for which an estimated payment is made in advance and final payment due is determined based on actual use.

**Sec. 131.35.** (A) With respect to the federal funds received into any fund of the state from which transfers may be made under division (D) of section 127.14 of the Revised Code:

(1) No state agency may make expenditures of any federal funds, whether such funds are advanced prior to expenditure or as reimbursement, unless such expenditures are made pursuant to

specific appropriations of the general assembly, are authorized by the controlling board pursuant to division (A)(5) of this section, or are authorized by an executive order issued in accordance with section 107.17 of the Revised Code, and until an allotment has been approved by the director of budget and management. All federal funds received by a state agency shall be reported to the director within fifteen days of the receipt of such funds or the notification of award, whichever occurs first. The director shall prescribe the forms and procedures to be used when reporting the receipt of federal funds.

(2) If the federal funds received are greater than the amount of such funds appropriated by the general assembly for a specific purpose, the total appropriation of federal and state funds for such purpose shall remain at the amount designated by the general assembly, except that the expenditure of federal funds received in excess of such specific appropriation may be authorized by the controlling board, subject to division (D) of this section.

(3) To the extent that the expenditure of excess federal funds is authorized, the controlling board may transfer a like amount of general revenue fund appropriation authority from the affected agency to the emergency purposes appropriation of the controlling board, if such action is permitted under federal regulations.

(4) Additional funds may be created by the controlling board to receive revenues not anticipated in an appropriations act for the biennium in which such new revenues are received. Subject to division (D) of this section, expenditures from such additional funds may be authorized by the controlling board, but such authorization shall not extend beyond the end of the biennium in which such funds are created.

(5) Controlling board authorization for a state agency to make an expenditure of federal funds constitutes authority for the agency to participate in the federal program providing the funds, and the agency is not required to obtain an executive order under section 107.17 of the Revised Code to participate in the federal program.

(B) With respect to nonfederal funds received into the waterways safety fund, the wildlife fund, and any fund of the state from which transfers may be made under division (D) of section 127.14 of the Revised Code:

(1) No state agency may make expenditures of any such funds unless the expenditures are made pursuant to specific appropriations of the general assembly.

(2) If the receipts received into any fund are greater than the amount appropriated, the appropriation for that fund shall remain at the amount designated by the general assembly or, subject to division (D) of this section, as increased and approved by the controlling board.

(3) Additional funds may be created by the controlling board to receive revenues not anticipated in an appropriations act for the biennium in which such new revenues are received. Subject to division (D) of this section, expenditures from such additional funds may be authorized by the controlling board, but such authorization shall not extend beyond the end of the biennium in which such funds are created.

(C) The controlling board shall not authorize more than ten per cent of additional spending from the occupational licensing and regulatory fund, created in section 4743.05 of the Revised Code, in excess of any appropriation made by the general assembly to a licensing agency except an appropriation for costs related to the examination or reexamination of applicants for a license. As

used in this division, "licensing agency" and "license" have the same meanings as in section 4745.01 of the Revised Code.

(D) The amount of any expenditure authorized under division (A)(2) or (4) or (B)(2) or (3) of this section for a specific or related purpose or item in any fiscal year shall not exceed an amount greater than one-half of one per cent of the general revenue fund appropriations for that fiscal year.

**Sec. 131.43.** There is hereby created in the state treasury the budget stabilization fund. It is the intent of the general assembly to maintain an amount of money in the budget stabilization fund that amounts to approximately eight and one-half per cent of the general revenue fund revenues for the preceding fiscal year. The governor shall include in the state budget the governor submits to the general assembly under section 107.03 of the Revised Code proposals for transfers between the general revenue fund and the budget stabilization fund for the ensuing fiscal biennium. The balance in the fund may be combined with the balance in the general revenue fund for purposes of cash management.

**Sec. 131.44.** (A) As used in this section:

(1) "Surplus revenue" means the excess, if any, of the total fund balance over the required year-end balance.

(2) "Total fund balance" means the sum of the unencumbered balance in the general revenue fund on the last day of the preceding fiscal year plus the balance in the budget stabilization fund.

(3) "Required year-end balance" means the sum of the following:

(a) Eight and one-half per cent of the general revenue fund revenues for the preceding fiscal year;

(b) "Ending fund balance," which means one-half of one per cent of general revenue fund revenues for the preceding fiscal year;

(c) "Carryover balance," which means, with respect to a fiscal biennium, the excess, if any, of the estimated general revenue fund appropriation and transfer requirement for the second fiscal year of the biennium over the estimated general revenue fund revenue for that fiscal year;

(d) "Capital appropriation reserve," which means the amount, if any, of general revenue fund capital appropriations made for the current biennium that the director of budget and management has determined will be encumbered or disbursed;

(e) "Income tax reduction impact reserve," which means an amount equal to the reduction projected by the director of budget and management in income tax revenue in the current fiscal year attributable to the previous reduction in the income tax rate made by the tax commissioner pursuant to division (B) of section 5747.02 of the Revised Code.

(4) "Estimated general revenue fund appropriation and transfer requirement" means the most recent adjusted appropriations made by the general assembly from the general revenue fund and includes both of the following:

(a) Appropriations made and transfers of appropriations from the first fiscal year to the second fiscal year of the biennium in provisions of acts of the general assembly signed by the governor but not yet effective;

(b) Transfers of appropriations from the first fiscal year to the second fiscal year of the biennium approved by the controlling board.

(5) "Estimated general revenue fund revenue" means the most recent such estimate available

to the director of budget and management.

(B)(1) Not later than the thirty-first day of July each year, the director of budget and management shall determine the surplus revenue that existed on the preceding thirtieth day of June and transfer from the general revenue fund, to the extent of the unobligated, unencumbered balance on the preceding thirtieth day of June in excess of one-half of one per cent of the general revenue fund revenues in the preceding fiscal year, the following:

(a) First, to the budget stabilization fund, any amount necessary for the balance of the budget stabilization fund to equal eight and one-half per cent of the general revenue fund revenues of the preceding fiscal year;

(b) Then, to the income tax reduction fund, which is hereby created in the state treasury, an amount equal to the surplus revenue.

(2) Not later than the thirty-first day of July each year, the director shall determine the percentage that the balance in the income tax reduction fund is of the amount of revenue that the director estimates will be received from the tax levied under section 5747.02 of the Revised Code in the current fiscal year without regard to any reduction under division (B) of that section. If that percentage exceeds thirty-five one hundredths of one per cent, the director shall certify the percentage to the tax commissioner not later than the thirty-first day of July.

(C) The director of budget and management shall transfer money in the income tax reduction fund to the general revenue fund, the local government fund, and the public library fund as necessary to offset revenue reductions resulting from the reductions in taxes required under division (B) of section 5747.02 of the Revised Code in the respective amounts and percentages prescribed by division (A) of section 5747.03 and divisions (A) and (B) of section 131.51 of the Revised Code as if the amount transferred had been collected as taxes under Chapter 5747. of the Revised Code. If no reductions in taxes are made under that division that affect revenue received in the current fiscal year, the director shall not transfer money from the income tax reduction fund to the general revenue fund, the local government fund, and the public library fund.

**Sec. 133.01.** As used in this chapter, in sections 9.95, 9.96, and 2151.655 of the Revised Code, in other sections of the Revised Code that make reference to this chapter unless the context does not permit, and in related proceedings, unless otherwise expressly provided:

(A) "Acquisition" as applied to real or personal property includes, among other forms of acquisition, acquisition by exercise of a purchase option, and acquisition of interests in property, including, without limitation, easements and rights-of-way, and leasehold and other lease interests initially extending or extendable for a period of at least sixty months.

(B) "Anticipatory securities" means securities, including notes, issued in anticipation of the issuance of other securities.

(C) "Board of elections" means the county board of elections of the county in which the subdivision is located. If the subdivision is located in more than one county, "board of elections" means the county board of elections of the county that contains the largest portion of the population of the subdivision or that otherwise has jurisdiction in practice over and customarily handles election matters relating to the subdivision.

(D) "Bond retirement fund" means the bond retirement fund provided for in section 5705.09 of the Revised Code, and also means a sinking fund or any other special fund, regardless of the name

applied to it, established by or pursuant to law or the proceedings for the payment of debt charges. Provision may be made in the applicable proceedings for the establishment in a bond retirement fund of separate accounts relating to debt charges on particular securities, or on securities payable from the same or common sources, and for the application of moneys in those accounts only to specified debt charges on specified securities or categories of securities. Subject to law and any provisions in the applicable proceedings, moneys in a bond retirement fund or separate account in a bond retirement fund may be transferred to other funds and accounts.

(E) "Capitalized interest" means all or a portion of the interest payable on securities from their date to a date stated or provided for in the applicable legislation, which interest is to be paid from the proceeds of the securities.

(F) "Chapter 133. securities" means securities authorized by or issued pursuant to or in accordance with this chapter.

(G) "County auditor" means the county auditor of the county in which the subdivision is located. If the subdivision is located in more than one county, "county auditor" means the county auditor of the county that contains the highest amount of the tax valuation of the subdivision or that otherwise has jurisdiction in practice over and customarily handles property tax matters relating to the subdivision. In the case of a county that has adopted a charter, "county auditor" means the officer who generally has the duties and functions provided in the Revised Code for a county auditor.

(H) "Credit enhancement facilities" means letters of credit, lines of credit, stand-by, contingent, or firm securities purchase agreements, insurance, or surety arrangements, guarantees, and other arrangements that provide for direct or contingent payment of debt charges, for security or additional security in the event of nonpayment or default in respect of securities, or for making payment of debt charges to and at the option and on demand of securities holders or at the option of the issuer or upon certain conditions occurring under put or similar arrangements, or for otherwise supporting the credit or liquidity of the securities, and includes credit, reimbursement, marketing, remarketing, indexing, carrying, interest rate hedge, and subrogation agreements, and other agreements and arrangements for payment and reimbursement of the person providing the credit enhancement facility and the security for that payment and reimbursement.

(I) "Current operating expenses" or "current expenses" means the lawful expenditures of a subdivision, except those for permanent improvements and for payments of debt charges of the subdivision.

(J) "Debt charges" means the principal, including any mandatory sinking fund deposits and mandatory redemption payments, interest, and any redemption premium, payable on securities as those payments come due and are payable. The use of "debt charges" for this purpose does not imply that any particular securities constitute debt within the meaning of the Ohio Constitution or other laws.

(K) "Financing costs" means all costs and expenses relating to the authorization, including any required election, issuance, sale, delivery, authentication, deposit, custody, clearing, registration, transfer, exchange, fractionalization, replacement, payment, and servicing of securities, including, without limitation, costs and expenses for or relating to publication and printing, postage, delivery, preliminary and final official statements, offering circulars, and informational statements, travel and transportation, underwriters, placement agents, investment bankers, paying agents, registrars,



authenticating agents, remarketing agents, custodians, clearing agencies or corporations, securities depositories, financial advisory services, certifications, audits, federal or state regulatory agencies, accounting and computation services, legal services and obtaining approving legal opinions and other legal opinions, credit ratings, redemption premiums, and credit enhancement facilities. Financing costs may be paid from any moneys available for the purpose, including, unless otherwise provided in the proceedings, from the proceeds of the securities to which they relate and, as to future financing costs, from the same sources from which debt charges on the securities are paid and as though debt charges.

(L) "Fiscal officer" means the following, or, in the case of absence or vacancy in the office, a deputy or assistant authorized by law or charter to act in the place of the named officer, or if there is no such authorization then the deputy or assistant authorized by legislation to act in the place of the named officer for purposes of this chapter, in the case of the following subdivisions:

- (1) A county, the county auditor;
- (2) A municipal corporation, the city auditor or village clerk or clerk-treasurer, or the officer who, by virtue of a charter, has the duties and functions provided in the Revised Code for the city auditor or village clerk or clerk-treasurer;
- (3) A school district, the treasurer of the board of education;
- (4) A regional water and sewer district, the secretary of the board of trustees;
- (5) A joint township hospital district, the treasurer of the district;
- (6) A joint ambulance district, the clerk of the board of trustees;
- (7) A joint recreation district, the person designated pursuant to section 755.15 of the Revised Code;
- (8) A detention facility district or a district organized under section 2151.65 of the Revised Code or a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, the county auditor of the county designated by law to act as the auditor of the district;
- (9) A township, a fire district organized under division (C) of section 505.37 of the Revised Code, or a township police district, the fiscal officer of the township;
- (10) A joint fire district, the clerk of the board of trustees of that district;
- (11) A regional or county library district, the person responsible for the financial affairs of that district;
- (12) A joint solid waste management district, the fiscal officer appointed by the board of directors of the district under section 343.01 of the Revised Code;
- (13) A joint emergency medical services district, the person appointed as fiscal officer pursuant to division (D) of section 307.053 of the Revised Code;
- (14) A fire and ambulance district, the person appointed as fiscal officer under division (B) of section 505.375 of the Revised Code;
- (15) A subdivision described in division (MM)(19) of this section, the officer who is designated by law as or performs the functions of its chief fiscal officer;
- (16) A joint police district, the treasurer of the district;
- (17) A lake facilities authority, the fiscal officer designated under section 353.02 of the Revised Code;
- (18) A regional transportation improvement project, the county auditor designated under

section 5595.10 of the Revised Code.

(M) "Fiscal year" has the same meaning as in section 9.34 of the Revised Code.

(N) "Fractionalized interests in public obligations" means participations, certificates of participation, shares, or other instruments or agreements, separate from the public obligations themselves, evidencing ownership of interests in public obligations or of rights to receive payments of, or on account of, principal or interest or their equivalents payable by or on behalf of an obligor pursuant to public obligations.

(O) "Fully registered securities" means securities in certificated or uncertificated form, registered as to both principal and interest in the name of the owner.

(P) "Fund" means to provide for the payment of debt charges and expenses related to that payment at or prior to retirement by purchase, call for redemption, payment at maturity, or otherwise.

(Q) "General obligation" means securities to the payment of debt charges on which the full faith and credit and the general property taxing power, including taxes within the tax limitation if available to the subdivision, of the subdivision are pledged.

(R) "Interest" or "interest equivalent" means those payments or portions of payments, however denominated, that constitute or represent consideration for forbearing the collection of money, or for deferring the receipt of payment of money to a future time.

(S) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1 et seq., as amended, and includes any laws of the United States providing for application of that code.

(T) "Issuer" means any public issuer and any nonprofit corporation authorized to issue securities for or on behalf of any public issuer.

(U) "Legislation" means an ordinance or resolution passed by a majority affirmative vote of the then members of the taxing authority unless a different vote is required by charter provisions governing the passage of the particular legislation by the taxing authority.

(V) "Mandatory sinking fund redemption requirements" means amounts required by proceedings to be deposited in a bond retirement fund for the purpose of paying in any year or fiscal year by mandatory redemption prior to stated maturity the principal of securities that is due and payable, except for mandatory prior redemption requirements as provided in those proceedings, in a subsequent year or fiscal year.

(W) "Mandatory sinking fund requirements" means amounts required by proceedings to be deposited in a year or fiscal year in a bond retirement fund for the purpose of paying the principal of securities that is due and payable in a subsequent year or fiscal year.

(X) "Net indebtedness" has the same meaning as in division (A) of section 133.04 of the Revised Code.

(Y) "Obligor," in the case of securities or fractionalized interests in public obligations issued by another person the debt charges or their equivalents on which are payable from payments made by a public issuer, means that public issuer.

(Z) "One purpose" relating to permanent improvements means any one permanent improvement or group or category of permanent improvements for the same utility, enterprise, system, or project, development or redevelopment project, or for or devoted to the same general purpose, function, or use or for which self-supporting securities, based on the same or different

sources of revenues, may be issued or for which special assessments may be levied by a single ordinance or resolution. "One purpose" includes, but is not limited to, in any case any off-street parking facilities relating to another permanent improvement, and:

- (1) Any number of roads, highways, streets, bridges, sidewalks, and viaducts;
- (2) Any number of off-street parking facilities;
- (3) In the case of a county, any number of permanent improvements for courthouse, jail, county offices, and other county buildings, and related facilities;
- (4) In the case of a school district, any number of facilities and buildings for school district purposes, and related facilities.

(AA) "Outstanding," referring to securities, means securities that have been issued, delivered, and paid for, except any of the following:

- (1) Securities canceled upon surrender, exchange, or transfer, or upon payment or redemption;
- (2) Securities in replacement of which or in exchange for which other securities have been issued;

(3) Securities for the payment, or redemption or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the applicable legislation or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, mandatory sinking fund requirements, or otherwise, have been deposited, and credited for the purpose in a bond retirement fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of securities to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected security holders has been filed with the subdivision or its agent for the purpose.

(BB) "Paying agent" means the one or more banks, trust companies, or other financial institutions or qualified persons, including an appropriate office or officer of the subdivision, designated as a paying agent or place of payment of debt charges on the particular securities.

(CC) "Permanent improvement" or "improvement" means any property, asset, or improvement certified by the fiscal officer, which certification is conclusive, as having an estimated life or period of usefulness of five years or more, and includes, but is not limited to, real estate, buildings, and personal property and interests in real estate, buildings, and personal property, equipment, furnishings, and site improvements, and reconstruction, rehabilitation, renovation, installation, improvement, enlargement, and extension of property, assets, or improvements so certified as having an estimated life or period of usefulness of five years or more. The acquisition of all the stock ownership of a corporation is the acquisition of a permanent improvement to the extent that the value of that stock is represented by permanent improvements. A permanent improvement for parking, highway, road, and street purposes includes resurfacing, but does not include ordinary repair.

(DD) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes any federal, state, interstate, regional, or local governmental agency, any subdivision, and any combination of those persons.

(EE) "Proceedings" means the legislation, certifications, notices, orders, sale proceedings, trust agreement or indenture, mortgage, lease, lease-purchase agreement, assignment, credit

enhancement facility agreements, and other agreements, instruments, and documents, as amended and supplemented, and any election proceedings, authorizing, or providing for the terms and conditions applicable to, or providing for the security or sale or award of, public obligations, and includes the provisions set forth or incorporated in those public obligations and proceedings.

(FF) "Public issuer" means any of the following that is authorized by law to issue securities or enter into public obligations:

(1) The state, including an agency, commission, officer, institution, board, authority, or other instrumentality of the state;

(2) A taxing authority, subdivision, district, or other local public or governmental entity, and any combination or consortium, or public division, district, commission, authority, department, board, officer, or institution, thereof;

(3) Any other body corporate and politic, or other public entity.

(GG) "Public obligations" means both of the following:

(1) Securities;

(2) Obligations of a public issuer to make payments under installment sale, lease, lease purchase, or similar agreements, which obligations may bear interest or interest equivalent.

(HH) "Refund" means to fund and retire outstanding securities, including advance refunding with or without payment or redemption prior to maturity.

(II) "Register" means the books kept and maintained by the registrar for registration, exchange, and transfer of registered securities.

(JJ) "Registrar" means the person responsible for keeping the register for the particular registered securities, designated by or pursuant to the proceedings.

(KK) "Securities" means bonds, notes, certificates of indebtedness, commercial paper, and other instruments in writing, including, unless the context does not admit, anticipatory securities, issued by an issuer to evidence its obligation to repay money borrowed, or to pay interest, by, or to pay at any future time other money obligations of, the issuer of the securities, but not including public obligations described in division (GG)(2) of this section.

(LL) "Self-supporting securities" means securities or portions of securities issued for the purpose of paying costs of permanent improvements to the extent that receipts of the subdivision, other than the proceeds of taxes levied by that subdivision, derived from or with respect to the improvements or the operation of the improvements being financed, or the enterprise, system, project, or category of improvements of which the improvements being financed are part, are estimated by the fiscal officer to be sufficient to pay the current expenses of that operation or of those improvements or enterprise, system, project, or categories of improvements and the debt charges payable from those receipts on securities issued for the purpose. Until such time as the improvements or increases in rates and charges have been in operation or effect for a period of at least six months, the receipts therefrom, for purposes of this definition, shall be those estimated by the fiscal officer, except that those receipts may include, without limitation, payments made and to be made to the subdivision under leases or agreements in effect at the time the estimate is made. In the case of an operation, improvements, or enterprise, system, project, or category of improvements without at least a six-month history of receipts, the estimate of receipts by the fiscal officer, other than those to be derived under leases and agreements then in effect, shall be confirmed by the taxing authority.

(MM) "Subdivision" means any of the following:

- (1) A county, including a county that has adopted a charter under Article X, Ohio Constitution;
- (2) A municipal corporation, including a municipal corporation that has adopted a charter under Article XVIII, Ohio Constitution;
- (3) A school district;
- (4) A regional water and sewer district organized under Chapter 6119. of the Revised Code;
- (5) A joint township hospital district organized under section 513.07 of the Revised Code;
- (6) A joint ambulance district organized under section 505.71 of the Revised Code;
- (7) A joint recreation district organized under division (C) of section 755.14 of the Revised Code;
- (8) A detention facility district organized under section 2152.41, a district organized under section 2151.65, or a combined district organized under sections 2152.41 and 2151.65 of the Revised Code;
- (9) A township police district organized under section 505.48 of the Revised Code;
- (10) A township;
- (11) A joint fire district organized under section 505.371 of the Revised Code;
- (12) A county library district created under section 3375.19 or a regional library district created under section 3375.28 of the Revised Code;
- (13) A joint solid waste management district organized under section 343.01 or 343.012 of the Revised Code;
- (14) A joint emergency medical services district organized under section 307.052 of the Revised Code;
- (15) A fire and ambulance district organized under section 505.375 of the Revised Code;
- (16) A fire district organized under division (C) of section 505.37 of the Revised Code;
- (17) A joint police district organized under section 505.482 of the Revised Code;
- (18) A lake facilities authority created under Chapter 353. of the Revised Code;
- (19) A regional transportation improvement project created under Chapter 5595. of the Revised Code;
- (20) Any other political subdivision or taxing district or other local public body or agency authorized by this chapter or other laws to issue Chapter 133. securities.

(NN) "Taxing authority" means in the case of the following subdivisions:

- (1) A county, a county library district, or a regional library district, the board or boards of county commissioners, or other legislative authority of a county that has adopted a charter under Article X, Ohio Constitution, but with respect to such a library district acting solely as agent for the board of trustees of that district;
- (2) A municipal corporation, the legislative authority;
- (3) A school district, the board of education;
- (4) A regional water and sewer district, a joint ambulance district, a joint recreation district, a fire and ambulance district, or a joint fire district, the board of trustees of the district;
- (5) A joint township hospital district, the joint township hospital board;
- (6) A detention facility district or a district organized under section 2151.65 of the Revised

Code, a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, or a joint emergency medical services district, the joint board of county commissioners;

(7) A township, a fire district organized under division (C) of section 505.37 of the Revised Code, or a township police district, the board of township trustees;

(8) A joint solid waste management district organized under section 343.01 or 343.012 of the Revised Code, the board of directors of the district;

(9) A subdivision described in division (MM)(19) of this section, the legislative or governing body or official;

(10) A joint police district, the joint police district board;

(11) A lake facilities authority, the board of directors;

(12) A regional transportation improvement project, the governing board.

(OO) "Tax limitation" means the "ten-mill limitation" as defined in section 5705.02 of the Revised Code without diminution by reason of section 5705.313 of the Revised Code or otherwise, or, in the case of a municipal corporation or county with a different charter limitation on property taxes levied to pay debt charges on unvoted securities, that charter limitation. Those limitations shall be respectively referred to as the "ten-mill limitation" and the "charter tax limitation."

(PP) "Tax valuation" means the aggregate of the valuations of property subject to ad valorem property taxation by the subdivision on the real property, personal property, and public utility property tax lists and duplicates most recently certified for collection, and shall be calculated without deductions of the valuations of otherwise taxable property exempt in whole or in part from taxation by reason of exemptions of certain amounts of taxable value under division (C) of section 5709.01, tax reductions under section 323.152 of the Revised Code, or similar laws now or in the future in effect.

For purposes of section 133.06 of the Revised Code, "tax valuation" shall not include the valuation of tangible personal property used in business, telephone or telegraph property, interexchange telecommunications company property, or personal property owned or leased by a railroad company and used in railroad operations listed under or described in section 5711.22, division (B) or (F) of section 5727.111, or section 5727.12 of the Revised Code.

(QQ) "Year" means the calendar year.

(RR) "Administrative agent," "agent," "commercial paper," "floating rate interest structure," "indexing agent," "interest rate hedge," "interest rate period," "put arrangement," and "remarketing agent" have the same meanings as in section 9.98 of the Revised Code.

(SS) "Sales tax supported" means obligations to the payment of debt charges on which an additional sales tax or additional sales taxes have been pledged by the taxing authority of a county pursuant to section 133.081 of the Revised Code.

(TT) "Tourism development district revenue supported" means obligations to the payment of debt charges on which tourism development district revenue has been pledged by the taxing authority of a municipal corporation or township under section 133.083 of the Revised Code.

**Sec. 133.04.** (A) As used in this chapter, "net indebtedness" means, as determined pursuant to this section, the principal amount of the outstanding securities of a subdivision less the amount held in a bond retirement fund to the extent such amount is not taken into account in determining the principal amount outstanding under division (AA) of section 133.01 of the Revised Code. For

purposes of this definition, the principal amount of outstanding securities includes the principal amount of outstanding securities of another subdivision apportioned to the subdivision as a result of acquisition of territory, and excludes the principal amount of outstanding securities of the subdivision apportioned to another subdivision as a result of loss of territory and the payment or reimbursement obligations of the subdivision under credit enhancement facilities relating to outstanding securities.

(B) In calculating the net indebtedness of a subdivision, none of the following securities, including anticipatory securities issued in anticipation of their issuance, shall be considered:

(1) Securities issued in anticipation of the levy or collection of special assessments, either in original or refunded form;

(2) Securities issued in anticipation of the collection of current revenues for the fiscal year or other period not to exceed twelve consecutive months, or securities issued in anticipation of the collection of the proceeds from a specifically identified voter-approved tax levy;

(3) Securities issued for purposes described in section 133.12 of the Revised Code;

(4) Securities issued under Chapter 122., 140., 165., 725., or 761. or section 131.23 of the Revised Code;

(5) Securities issued to pay final judgments or court-approved settlements under authorizing laws and securities issued under section 2744.081 of the Revised Code;

(6) Securities issued to pay costs of permanent improvements to the extent they are issued in anticipation of the receipt of, and are payable as to principal from, federal or state grants or distributions for, or legally available for, that principal or for the costs of those permanent improvements;

(7) Securities issued to evidence loans from the state capital improvements fund pursuant to Chapter 164. of the Revised Code or from the state infrastructure bank pursuant to section 5531.09 of the Revised Code;

(8) That percentage of the principal amount of general obligation securities issued by a county, township, or municipal corporation to pay the costs of permanent improvements equal to the percentage of the debt charges on those securities payable during the current fiscal year that the fiscal officer estimates can be paid during the current fiscal year from payments in lieu of taxes under section 1728.11, 1728.111, 5709.42, 5709.46, 5709.74, or 5709.79 of the Revised Code, and that the legislation authorizing the issuance of the securities pledges or covenants will be used for the payment of those debt charges; provided that the amount excluded from consideration under division (B)(8) of this section shall not exceed the lesser of thirty million dollars or one-half per cent of the subdivision's tax valuation in the case of a county or township, or one and one-tenth per cent of the subdivision's tax valuation in the case of a municipal corporation;

(9) Securities issued in an amount equal to the property tax replacement payments received under section 5727.85 or 5727.86 of the Revised Code;

(10) Securities issued in an amount equal to the property tax replacement payments received under section 5751.21 or 5751.22 of the Revised Code;

(11) Other securities, including self-supporting securities, excepted by law from the calculation of net indebtedness or from the application of this chapter;

(12) Securities issued under section 133.083 of the Revised Code for the purpose of acquiring, constructing, improving, or equipping any permanent improvement to the extent that the

legislation authorizing the issuance pledges tourism development district revenue to the payment of debt charges on the securities and contains a covenant to appropriate from tourism development district revenue a sufficient amount to cover debt charges or the financing costs related to the securities as they become due;

(13) Any other securities outstanding on October 30, 1989, and then excepted from the calculation of net indebtedness or from the application of this chapter, and securities issued at any time to fund or refund those securities.

**Sec. 133.05.** (A) A municipal corporation shall not incur net indebtedness that exceeds an amount equal to ten and one-half per cent of its tax valuation, or incur without a vote of the electors net indebtedness that exceeds an amount equal to five and one-half per cent of that tax valuation.

(B) In calculating the net indebtedness of a municipal corporation, none of the following securities shall be considered:

(1) Self-supporting securities issued for any purposes including, without limitation, any of the following general purposes:

- (a) Water systems or facilities;
- (b) Sanitary sewerage systems or facilities, or surface and storm water drainage and sewerage systems or facilities, or a combination of those systems or facilities;
- (c) Electric plants and facilities and steam or cogeneration facilities that generate or supply electricity, or steam and electrical or steam distribution systems and lines;
- (d) Airports or landing fields or facilities;
- (e) Railroads, rapid transit, and other mass transit systems;
- (f) Off-street parking lots, facilities, or buildings, or on-street parking facilities, or any combination of off-street and on-street parking facilities;
- (g) Facilities for the care or treatment of the sick or infirm, and for housing the persons providing such care or treatment and their families;
- (h) Solid waste or hazardous waste collection or disposal facilities, or resource recovery and solid or hazardous waste recycling facilities, or any combination of those facilities;
- (i) Urban redevelopment projects;
- (j) Recreational, sports, convention, auditorium, museum, trade show, and other public attraction facilities;
- (k) Facilities for natural resources exploration, development, recovery, use, and sale;
- (l) Correctional and detention facilities, including multicounty-municipal jails, and related rehabilitation facilities.

(2) Securities issued for the purpose of purchasing, constructing, improving, or extending water or sanitary or surface and storm water sewerage systems or facilities, or a combination of those systems or facilities, to the extent that an agreement entered into with another subdivision requires the other subdivision to pay to the municipal corporation amounts equivalent to debt charges on the securities;

(3) Securities issued under order of the director of health or director of environmental protection under section 6109.18 of the Revised Code;

(4) Securities issued under Section 3, 10, or 12 of Article XVIII, Ohio Constitution;

(5) Securities that are not general obligations of the municipal corporation;



(6) Voted securities issued for the purposes of urban redevelopment to the extent that their principal amount does not exceed an amount equal to two per cent of the tax valuation of the municipal corporation;

(7) Unvoted general obligation securities to the extent that the legislation authorizing them includes covenants to appropriate annually from lawfully available municipal income taxes or other municipal excises or taxes, including taxes referred to in section 701.06 of the Revised Code but not including ad valorem property taxes, and to continue to levy and collect those municipal income taxes or other applicable excises or taxes in, amounts necessary to meet the debt charges on those securities, which covenants are hereby authorized;

(8) Self-supporting securities issued prior to July 1, 1977, under this chapter for the purpose of municipal university residence halls to the extent that revenues of the successor state university allocated to debt charges on those securities, from sources other than municipal excises and taxes, are sufficient to pay those debt charges;

(9) Securities issued for the purpose of acquiring or constructing roads, highways, bridges, or viaducts, for the purpose of acquiring or making other highway permanent improvements, or for the purpose of procuring and maintaining computer systems for the office of the clerk of the municipal court to the extent that the legislation authorizing the issuance of the securities includes a covenant to appropriate from money distributed to the municipal corporation pursuant to Chapter 4501., 4503., 4504., or 5735. of the Revised Code a sufficient amount to cover debt charges on and financing costs relating to the securities as they become due;

(10) Securities issued for the purpose of providing some or all of the funds required to satisfy the municipal corporation's obligation under an agreement with the board of trustees of the Ohio police and fire pension fund under section 742.30 of the Revised Code;

(11) Securities issued for the acquisition, construction, equipping, and improving of a municipal educational and cultural facility under division (B)(2) of section 307.672 of the Revised Code;

(12) Securities issued for energy conservation measures under section 717.02 of the Revised Code;

(13) Securities that are obligations issued to pay costs of a sports facility under section 307.673 of the Revised Code;

(14) Securities issued under section 133.083 of the Revised Code for the purpose of acquiring, constructing, improving, or equipping any permanent improvement to the extent that the legislation authorizing the issuance pledges tourism development district revenue to the payment of debt charges on the securities and contains a covenant to appropriate from tourism development district revenue a sufficient amount to cover debt charges or the financing costs related to the securities as they become due.

(C) In calculating the net indebtedness of a municipal corporation, no obligation incurred under section 749.081 of the Revised Code shall be considered.

**Sec. 133.07.** (A) A county shall not incur, without a vote of the electors, either of the following:

(1) Net indebtedness for all purposes that exceeds an amount equal to one per cent of its tax valuation;

(2) Net indebtedness for the purpose of paying the county's share of the cost of the construction, improvement, maintenance, or repair of state highways that exceeds an amount equal to one-half of one per cent of its tax valuation.

(B) A county shall not incur total net indebtedness that exceeds an amount equal to one of the following limitations that applies to the county:

(1) A county with a valuation not exceeding one hundred million dollars, three per cent of that tax valuation;

(2) A county with a tax valuation exceeding one hundred million dollars but not exceeding three hundred million dollars, three million dollars plus one and one-half per cent of that tax valuation in excess of one hundred million dollars;

(3) A county with a tax valuation exceeding three hundred million dollars, six million dollars plus two and one-half per cent of that tax valuation in excess of three hundred million dollars.

(C) In calculating the net indebtedness of a county, none of the following securities shall be considered:

(1) Securities described in section 307.201 of the Revised Code;

(2) Self-supporting securities issued for any purposes, including, but not limited to, any of the following general purposes:

(a) Water systems or facilities;

(b) Sanitary sewerage systems or facilities, or surface and storm water drainage and sewerage systems or facilities, or a combination of those systems or facilities;

(c) County or joint county scrap tire collection, storage, monocell, monofill, or recovery facilities, or any combination of those facilities;

(d) Off-street parking lots, facilities, or buildings, or on-street parking facilities, or any combination of off-street and on-street parking facilities;

(e) Facilities for the care or treatment of the sick or infirm, and for housing the persons providing that care or treatment and their families;

(f) Recreational, sports, convention, auditorium, museum, trade show, and other public attraction facilities;

(g) Facilities for natural resources exploration, development, recovery, use, and sale;

(h) Correctional and detention facilities and related rehabilitation facilities.

(3) Securities issued for the purpose of purchasing, constructing, improving, or extending water or sanitary or surface and storm water sewerage systems or facilities, or a combination of those systems or facilities, to the extent that an agreement entered into with another subdivision requires the other subdivision to pay to the county amounts equivalent to debt charges on the securities;

(4) Voted general obligation securities issued for the purpose of permanent improvements for sanitary sewerage or water systems or facilities to the extent that the total principal amount of voted securities outstanding for the purpose does not exceed an amount equal to two per cent of the county's tax valuation;

(5) Securities issued for permanent improvements to house agencies, departments, boards, or commissions of the county or of any municipal corporation located, in whole or in part, in the county, to the extent that the revenues, other than revenues from unvoted county property taxes, derived from leases or other agreements between the county and those agencies, departments, boards,

commissions, or municipal corporations relating to the use of the permanent improvements are sufficient to cover the cost of all operating expenses of the permanent improvements paid by the county and debt charges on the securities;

(6) Securities issued pursuant to section 133.08 of the Revised Code;

(7) Securities issued for the purpose of acquiring or constructing roads, highways, bridges, or viaducts, for the purpose of acquiring or making other highway permanent improvements, or for the purpose of procuring and maintaining computer systems for the office of the clerk of any county-operated municipal court, for the office of the clerk of the court of common pleas, or for the office of the clerk of the probate, juvenile, or domestic relations division of the court of common pleas to the extent that the legislation authorizing the issuance of the securities includes a covenant to appropriate from moneys distributed to the county pursuant to division (B) of section 2101.162, 2151.541, 2153.081, 2301.031, or 2303.201 or Chapter 4501., 4503., 4504., or 5735. of the Revised Code a sufficient amount to cover debt charges on and financing costs relating to the securities as they become due;

(8) Securities issued for the purpose of acquiring, constructing, improving, and equipping a county, multicounty, or multicounty-municipal jail, workhouse, juvenile detention facility, or correctional facility;

(9) Securities issued for the acquisition, construction, equipping, or repair of any permanent improvement or any class or group of permanent improvements enumerated in a resolution adopted pursuant to division (D) of section 5739.026, or under division (A)(10) of section 5739.09, of the Revised Code to the extent that the legislation authorizing the issuance of the securities includes a covenant to appropriate from moneys received from the taxes authorized under section 5739.023 and division (A)(5) of section 5739.026, or under division (A)(10) of section 5739.09, of the Revised Code, respectively, an amount sufficient to pay debt charges on the securities and those moneys shall be pledged for that purpose;

(10) Securities issued for county or joint county solid waste or hazardous waste collection, transfer, or disposal facilities, or resource recovery and solid or hazardous waste recycling facilities, or any combination of those facilities;

(11) Securities issued for the acquisition, construction, and equipping of a port authority educational and cultural facility under section 307.671 of the Revised Code;

(12) Securities issued for the acquisition, construction, equipping, and improving of a municipal educational and cultural facility under division (B)(1) of section 307.672 of the Revised Code;

(13) Securities issued for energy conservation measures under section 307.041 of the Revised Code;

(14) Securities issued for the acquisition, construction, equipping, improving, or repair of a sports facility, including obligations issued to pay costs of a sports facility under section 307.673 of the Revised Code;

(15) Securities issued under section 755.17 of the Revised Code if the legislation authorizing issuance of the securities includes a covenant to appropriate from revenue received from a tax authorized under division (A)(5) of section 5739.026 and section 5741.023 of the Revised Code an amount sufficient to pay debt charges on the securities, and the board of county commissioners

pledges that revenue for that purpose, pursuant to section 755.171 of the Revised Code;

(16) Sales tax supported bonds issued pursuant to section 133.081 of the Revised Code for the purpose of acquiring, constructing, improving, or equipping any permanent improvement to the extent that the legislation authorizing the issuance of the sales tax supported bonds pledges county sales taxes to the payment of debt charges on the sales tax supported bonds and contains a covenant to appropriate from county sales taxes a sufficient amount to cover debt charges or the financing costs related to the sales tax supported bonds as they become due;

(17) Bonds or notes issued under section 133.60 of the Revised Code if the legislation authorizing issuance of the bonds or notes includes a covenant to appropriate from revenue received from a tax authorized under division (A)(9) of section 5739.026 and section 5741.023 of the Revised Code an amount sufficient to pay the debt charges on the bonds or notes, and the board of county commissioners pledges that revenue for that purpose;

(18) Securities issued under section 3707.55 of the Revised Code for the acquisition of real property by a general health district;

(19) Securities issued under division (A)(3) of section 3313.37 of the Revised Code for the acquisition of real and personal property by an educational service center;

(20) Securities issued for the purpose of paying the costs of acquiring, constructing, reconstructing, renovating, rehabilitating, expanding, adding to, equipping, furnishing, or otherwise improving an arena, convention center, or a combination of an arena and convention center under section 307.695 of the Revised Code;

(21) Securities issued for the purpose of paying project costs under section 307.678 of the Revised Code;

(22) Securities issued for the purpose of paying project costs under section 307.679 of the Revised Code.

(D) In calculating the net indebtedness of a county, no obligation incurred under division (F) of section 339.06 of the Revised Code shall be considered.

**Sec. 133.083.**

**Sec. 133.34.** (A) Upon the determination of the taxing authority that such funding or refunding will be in the subdivision's best interest, the subdivision may:

(1) Issue general obligation securities to fund or refund any outstanding revenue or mortgage revenue, sales tax supported, or other special obligation securities previously issued by it for permanent improvements pursuant to authorization by law or the Ohio Constitution. Any general obligation bonds issued pursuant to this division (A)(1) shall be payable as to principal at such times and in such installments as determined by the taxing authority consistent with section 133.21 of the Revised Code. The last maturity of the refunding securities shall not be later than the later of:

(a) Thirty years from the date of issuance of the original securities issued for the original purpose; or

(b) The year of the last maturity that would have been permitted for the original securities if they had been issued as general obligation securities and the law as to the maximum maturity of general obligation securities issued for the original purpose were the same at the time the original securities were issued as the law existing at the time the refunding securities are issued.

(2) Issue revenue or mortgage revenue securities, if authorized by other law or the Ohio

Constitution to issue such securities for the original purpose, to fund or refund any outstanding general obligation or sales tax supported securities previously issued by it pursuant to authorization by law. The taxing authority shall establish the maturity date or dates, the interest payable, and other terms of such securities as it considers necessary or appropriate for their issuance.

(3) Issue general obligation securities to fund or refund outstanding general obligation bonds issued in one or more issues for any purpose or purposes. General obligation securities issued pursuant to this division (A)(3) shall be payable as to principal at such times and in such installments as determined by the taxing authority. Section 133.21 of the Revised Code is not applicable to these refunding securities, but the last maturity of these refunding securities shall not be later than the year of last maturity permitted by law for the general obligation bonds refunded. Tax levies for debt charges on the refunding general obligation securities shall be considered to have the same status with respect to the provisions of the applicable tax limitation as the levies for debt charges on, and the refunding general obligation securities shall be considered to have the same status with respect to net indebtedness limitations as, the general obligation bonds that are refunded.

(4) Issue sales tax supported or other special obligation securities to fund or refund any outstanding general obligation securities, or revenue or mortgage revenue, sales tax supported, or other special obligation securities previously issued by it for permanent improvements pursuant to authorization by law or the Ohio Constitution. Any sales tax supported bonds issued pursuant to this division (A)(4) shall be payable as to principal at such times and in such installments as determined by the taxing authority consistent with division (E) of section 133.081 of the Revised Code, but their last maturity shall be consistent with division (B) of section 133.081 of the Revised Code. Other special obligation securities issued under this division (A)(4) shall be payable as to principal at such times and in such installments as determined by the taxing authority, and are not subject to section 133.21 of the Revised Code. The last maturity of these refunding securities shall be not later than the year of last maturity permitted by law for the obligations refunded.

(5) Apply moneys from other sources to fund any outstanding securities or public obligations issued by the taxing authority pursuant to authorization by law or the Ohio Constitution, including the funding of any mandatory sinking fund redemption requirements.

(6) Issue tourism development district revenue supported bonds to fund or refund any outstanding revenue or mortgage revenue or general obligation or other special obligation securities previously issued by it for permanent improvements pursuant to authorization by law or the Ohio Constitution. Any tourism development district revenue supported bonds issued pursuant to division (A)(6) of this section shall be payable as to principal at such times and in such installments as determined by the taxing authority consistent with division (E) of section 133.083 of the Revised Code, but their last maturity shall be consistent with division (B) of section 133.083 of the Revised Code.

(B) Securities issued pursuant to this section shall be considered to be issued for the same purpose or purposes as the securities that they are issued to fund or refund, and their proceeds shall be used as determined by the taxing authority consistent with their purpose. That use may include the payment of the outstanding principal amount of, any redemption premium on, and any interest to redemption or maturity on, the securities being funded or refunded, and any expenses relating to the funding or refunding or the issuance of the refunding bonds, including financing costs, all as

determined by the taxing authority. Proceeds of securities issued pursuant to this section may also be used to provide additional money for the purpose or purposes for which the securities being funded or refunded, or which they funded or refunded, were issued, but section 133.21 of the Revised Code is applicable to any such portion of general obligation securities.

(C) Securities may be issued and other moneys may be applied pursuant to this section to fund or refund all or any portion of the outstanding securities, and whether or not the securities to be funded or refunded were issued subject to call or redemption prior to maturity or are the original securities or are themselves refunding securities.

(D) Moneys derived from the proceeds of securities issued pursuant to this section to fund or refund general obligation bonds, or moneys from other sources, and required for the purpose shall, under an escrow agreement or otherwise, to the extent required by the legislation be placed in an escrow fund, which may be in the bond retirement fund in the case of the funded or refunded bonds being payable within ninety days of issuance of the refunding securities, and other moneys applied pursuant to this section to fund general obligation bonds shall, under an escrow agreement or otherwise, to the extent required by the legislation, be placed in an escrow fund that may be in the sinking fund or bond retirement fund, and in either case are pledged for the purpose of funding or refunding the refunded general obligation bonds and shall be used, together with any other available funds as provided in this section, for that purpose. Pending that use, the moneys in escrow shall be held in cash or, if and to the extent authorized by the taxing authority, invested in whole or in part in direct obligations of or obligations guaranteed as to payment by the United States that mature or are subject to redemption by and at the option of the holder not later than the date or dates when the moneys invested, together with interest or other investment income accrued on those moneys, and any moneys held in cash and not invested will be required for that use. Any moneys in the escrow fund derived from the issuance of revenue or mortgage revenue, sales tax supported, or other special obligation securities that will not be needed to pay debt charges on the funded or refunded general obligation bonds may be used for and pledged to the payment of debt charges on the refunding securities and on any securities issued on a parity with the refunding securities. Any moneys in the escrow fund derived from the proceeds of refunding general obligation securities and that will not be needed to pay debt charges on the refunded general obligation bonds shall be transferred to the bond retirement fund. When the subdivision has placed in escrow moneys, derived from proceeds of refunding obligations or otherwise, or those direct or guaranteed obligations of the United States, or a combination of both, determined by an independent public accounting firm to be sufficient, with the interest or other investment income accruing on those direct or guaranteed obligations, for the payment of debt charges on the funded or refunded general obligation bonds, the funded or refunded general obligation bonds shall no longer be considered to be outstanding, shall not be considered for purposes of determining any limitation, direct or indirect, on the indebtedness or net indebtedness of the subdivision, and the levy of taxes or other charges for the payment of debt charges on the funded or refunded general obligation bonds under this chapter, Chapter 5705., or other provisions of the Revised Code, shall not be required. For purposes of this division, "direct obligations of or obligations guaranteed as to payment by the United States" includes rights to receive payment or portions of payments of the principal of or interest or other investment income on:

- (1) Those obligations; and

(2) Other obligations fully secured as to payment by those obligations and the interest or other investment income on those obligations.

(E) The authority granted by this section is in addition to and not a limitation on any other authorizations granted by or pursuant to law or the Ohio Constitution for the same or similar purposes, and does not limit or restrict the authority of municipal corporations to issue, under authority of Article XVIII, Ohio Constitution, revenue or mortgage revenue securities to fund or refund either general obligation securities or other revenue or mortgage revenue securities.

**Sec. 135.01.** Except as otherwise provided in sections 135.14, 135.143, 135.181, and 135.182 of the Revised Code, as used in sections 135.01 to 135.21 of the Revised Code:

(A) "Active deposit" means a public deposit necessary to meet current demands on the treasury, and that is deposited in any of the following:

- (1) A commercial account that is payable or withdrawable, in whole or in part, on demand;
- (2) A negotiable order of withdrawal account as authorized in the "Consumer Checking Account Equity Act of 1980," 94 Stat. 146, 12 U.S.C.A. 1832(a);
- (3) A money market deposit account as authorized in the "Garn-St. Germain Depository Institutions Act of 1982," 96 Stat. 1501, 12 U.S.C. 3503.

(B) "Auditor" includes the auditor of state and the auditor, or officer exercising the functions of an auditor, of any subdivision.

(C) "Capital funds" means the sum of the following: the par value of the outstanding common capital stock, the par value of the outstanding preferred capital stock, the aggregate par value of all outstanding capital notes and debentures, and the surplus. In the case of an institution having offices in more than one county, the capital funds of such institution, for the purposes of sections 135.01 to 135.21 of the Revised Code, relative to the deposit of the public moneys of the subdivisions in one such county, shall be considered to be that proportion of the capital funds of the institution that is represented by the ratio that the deposit liabilities of such institution originating at the office located in the county bears to the total deposit liabilities of the institution.

(D) "Governing board" means, in the case of the state, the state board of deposit; in the case of all school districts and educational service centers except as otherwise provided in this section, the board of education or governing board of a service center, and when the case so requires, the board of commissioners of the sinking fund; in the case of a municipal corporation, the legislative authority, and when the case so requires, the board of trustees of the sinking fund; in the case of a township, the board of township trustees; in the case of a union or joint institution or enterprise of two or more subdivisions not having a treasurer, the board of directors or trustees thereof; and in the case of any other subdivision electing or appointing a treasurer, the directors, trustees, or other similar officers of such subdivision. The governing board of a subdivision electing or appointing a treasurer shall be the governing board of all other subdivisions for which such treasurer is authorized by law to act. In the case of a county school financing district that levies a tax pursuant to section 5705.215 of the Revised Code, the county board of education that serves as its taxing authority shall operate as a governing board. Any other county board of education shall operate as a governing board unless it adopts a resolution designating the board of county commissioners as the governing board for the county school district.

(E) "Inactive deposit" means a public deposit other than an interim deposit or an active

deposit.

(F) "Interim deposit" means a deposit of interim moneys. "Interim moneys" means public moneys in the treasury of the state or any subdivision after the award of inactive deposits has been made in accordance with section 135.07 of the Revised Code, which moneys are in excess of the aggregate amount of the inactive deposits as estimated by the governing board prior to the period of designation and which the treasurer or governing board finds should not be deposited as active or inactive deposits for the reason that such moneys will not be needed for immediate use but will be needed before the end of the period of designation.

(G) "Permissible rate of interest" means a rate of interest that all eligible institutions mentioned in section 135.03 of the Revised Code are permitted to pay by law or valid regulations.

(H) "Warrant clearance account" means an account established by the treasurer of state for the deposit of active state moneys outside the city of Columbus, such account being for the exclusive purpose of clearing state warrants through the banking system to the treasurer.

(I) "Public deposit" means public moneys deposited in a public depository pursuant to sections 135.01 to 135.21 of the Revised Code.

(J) "Public depository" means an institution which receives or holds any public deposits.

(K) "Public moneys" means all moneys in the treasury of the state or any subdivision of the state, or moneys coming lawfully into the possession or custody of the treasurer of state or of the treasurer of any subdivision. "Public moneys of the state" includes all such moneys coming lawfully into the possession of the treasurer of state; and "public moneys of a subdivision" includes all such moneys coming lawfully into the possession of the treasurer of the subdivision.

(L) "Subdivision" means any municipal corporation, except one which has adopted a charter under Article XVIII, Ohio Constitution, and the charter or ordinances of the chartered municipal corporation set forth special provisions respecting the deposit or investment of its public moneys, or any school district or educational service center, a county school financing district, township, municipal or school district sinking fund, special taxing or assessment district, or other district or local authority electing or appointing a treasurer, except a county. In the case of a school district or educational service center, special taxing or assessment district, or other local authority for which a treasurer, elected or appointed primarily as the treasurer of a subdivision, is authorized or required by law to act as ex officio treasurer, the subdivision for which such a treasurer has been primarily elected or appointed shall be considered to be the "subdivision." The term also includes a union or joint institution or enterprise of two or more subdivisions, that is not authorized to elect or appoint a treasurer, and for which no ex officio treasurer is provided by law.

(M) "Treasurer" means, in the case of the state, the treasurer of state and in the case of any subdivision, the treasurer, or officer exercising the functions of a treasurer, of such subdivision. In the case of a board of trustees of the sinking fund of a municipal corporation, the board of commissioners of the sinking fund of a school district, or a board of directors or trustees of any union or joint institution or enterprise of two or more subdivisions not having a treasurer, such term means such board of trustees of the sinking fund, board of commissioners of the sinking fund, or board of directors or trustees.

(N) "Treasury investment board" of a municipal corporation means the mayor or other chief executive officer, the village solicitor or city director of law, and the auditor or other chief fiscal



officer.

(O) "No-load money market mutual fund" means a no-load money market mutual fund to which all of the following apply:

(1) The fund is registered as an investment company under the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C.A. 80a-1 to 80a-64;

(2) The fund has the highest letter or numerical rating provided by at least one nationally recognized standard rating service;

(3) The fund does not include any investment in a derivative. As used in division (O)(3) of this section, "derivative" means a financial instrument or contract or obligation whose value or return is based upon or linked to another asset or index, or both, separate from the financial instrument, contract, or obligation itself. Any security, obligation, trust account, or other instrument that is created from an issue of the United States treasury or is created from an obligation of a federal agency or instrumentality or is created from both is considered a derivative instrument. An eligible investment described in section 135.14 or 135.35 of the Revised Code with a variable interest rate payment, based upon a single interest payment or single index comprised of other investments provided for in division (B)(1) or (2) of section 135.14 of the Revised Code, is not a derivative, provided that such variable rate investment has a maximum maturity of two years.

(P) "Public depositor" means the state or a subdivision, as applicable, that deposits public moneys in a public depository pursuant to sections 135.01 to 135.21 of the Revised Code.

(Q) "Uninsured public deposit" means the portion of a public deposit that is not insured by the federal deposit insurance corporation or by any other agency or instrumentality of the federal government.

**Sec. 135.04.** (A) Any institution mentioned in section 135.03 of the Revised Code is eligible to become a public depository of the active deposits, inactive deposits, and interim deposits of public moneys of the state subject to the requirements of sections 135.01 to 135.21 of the Revised Code.

(B) To facilitate the clearance of state warrants to the state treasury, the state board of deposit may delegate the authority to the treasurer of state to establish warrant clearance accounts in any institution mentioned in section 135.03 of the Revised Code located in areas where the volume of warrant clearances justifies the establishment of an account as determined by the treasurer of state. The balances maintained in such warrant clearance accounts shall be at sufficient levels to cover the activity generated by such accounts on an individual basis. Any financial institution in the state that has a warrant clearance account established by the treasurer of state shall, not more than ten days after the close of each quarter, prepare and transmit to the treasurer of state an analysis statement of such account for the quarter then ended. Such statement shall contain such information as determined by the state board of deposit, and this information shall be used in whole or in part by the treasurer of state in determining the level of balances to be maintained in such accounts.

(C) Each governing board shall award the active deposits of public moneys subject to its control to the eligible institutions in accordance with this section, except that no such public depository shall thereby be required to take or permitted to receive and have at any one time a greater amount of active deposits of such public moneys than that specified in the application of such depository. When, by reason of such limitation or otherwise, the amount of active public moneys deposited or to be deposited in a public depository, pursuant to an award made under this section, is

reduced or withdrawn, as the case requires, the amount of such reduction or the sum so withdrawn shall be deposited in another eligible institution applying therefor, or if there is no such eligible institution, then the amount so withheld or withdrawn shall be awarded or deposited for the remainder of the period of designation in accordance with sections 135.01 to 135.21 of the Revised Code.

(D) Any institution mentioned in section 135.03 of the Revised Code is eligible to become a public depository of the inactive and interim deposits of public moneys of a subdivision. In case the aggregate amount of inactive or interim deposits applied for by such eligible institutions is less than the aggregate maximum amount of such inactive or interim deposits as estimated to be deposited pursuant to sections 135.01 to 135.21 of the Revised Code, the governing board of the subdivision may designate as a public depository of the inactive or interim deposits of the public moneys thereof, one or more institutions of a kind mentioned in section 135.03 of the Revised Code, subject to the requirements of sections 135.01 to 135.21 of the Revised Code.

(E) Any institution mentioned in section 135.03 of the Revised Code is eligible to become a public depository of the active deposits of public moneys of a subdivision. In case the aggregate amount of active deposits of the public moneys of the subdivision applied for by such eligible institutions is less than the aggregate maximum amount to be deposited as such, as estimated by the governing board, said board may designate as a public depository of the active deposits of the public moneys of the subdivision, one or more institutions of the kind mentioned in section 135.03 of the Revised Code, subject to the requirements of sections 135.01 to 135.21 of the Revised Code.

(F)(1) The governing board of the state or of a subdivision may designate one or more minority banks as public depositories of its inactive, interim, or active deposits of public moneys designated as federal funds. Except for section 135.18, 135.181, or 135.182 of the Revised Code, Chapter 135. of the Revised Code does not apply to the application for, or the award of, such deposits. As used in this division, "minority bank" means a bank that is owned or controlled by one or more socially or economically disadvantaged persons. Such disadvantage may arise from cultural, ethnic, or racial background, chronic economic circumstances, or other similar cause. Such persons include, but are not limited to, Afro-Americans, Puerto Ricans, Spanish-speaking Americans, and American Indians.

(2) In enacting this division, the general assembly finds that:

(a) Certain commercial banks are owned or controlled by minority Americans;

(b) Minority banks are an important source of banking services in their communities;

(c) Minority banks have been unsuccessful in competing under Chapter 135. of the Revised Code for the award of federal funds;

(d) This division contains safeguards for the protection of the general public and the banking industry, since it provides the governing board of the state or political subdivision with permissive authority in the award of deposits; limits the authority of the governing board to the award of federal funds; and subjects minority banks to certain limitations of Chapter 135. of the Revised Code, including the requirement that, as in the case of every financial institution subject to Chapter 135. of the Revised Code, a minority bank pledge certain securities for repayment of the deposits.

(3) The purpose of this division is to recognize that the state has a substantial and compelling interest in encouraging the establishment, development, and stability of minority banks by facilitating

their access to the award of federal funds, while ensuring the protection of the general public and the banking industry.

(G) The governing board of a subdivision shall award the first twenty-five thousand dollars of the active deposits of public moneys subject to its control to the eligible institution or institutions applying or qualifying therefor on the basis of the operating needs of the subdivision and shall award the active deposits of public moneys subject to its control in excess of twenty-five thousand dollars to the eligible institution or institutions applying or qualifying therefor.

**Sec. 135.14.** (A) As used in this section:

(1) "Treasurer" does not include the treasurer of state, and "governing board" does not include the state board of deposit.

(2) "Other obligations" includes notes whether or not issued in anticipation of the issuance of bonds.

(B) The treasurer or governing board may invest or deposit any part or all of the interim moneys. The following classifications of obligations shall be eligible for such investment or deposit:

(1) United States treasury bills, notes, bonds, or any other obligation or security issued by the United States treasury or any other obligation guaranteed as to principal and interest by the United States.

Nothing in the classification of eligible obligations set forth in division (B)(1) of this section or in the classifications of eligible obligations set forth in divisions (B)(2) to (7) of this section shall be construed to authorize any investment in stripped principal or interest obligations of such eligible obligations.

(2) Bonds, notes, debentures, or any other obligations or securities issued by any federal government agency or instrumentality, including but not limited to, the federal national mortgage association, federal home loan bank, federal farm credit bank, federal home loan mortgage corporation, and government national mortgage association. All federal agency securities shall be direct issuances of federal government agencies or instrumentalities.

(3) Interim deposits in the eligible institutions applying for interim moneys as provided in section 135.08 of the Revised Code. The award of interim deposits shall be made in accordance with section 135.09 of the Revised Code and the treasurer or the governing board shall determine the periods for which such interim deposits are to be made and shall award such interim deposits for such periods, provided that any eligible institution receiving an interim deposit award may, upon notification that the award has been made, decline to accept the interim deposit in which event the award shall be made as though the institution had not applied for such interim deposit.

(4) Bonds and other obligations of this state, or the political subdivisions of this state, provided that, with respect to bonds or other obligations of political subdivisions, all of the following apply:

(a) The bonds or other obligations are payable from general revenues of the political subdivision and backed by the full faith and credit of the political subdivision.

(b) The bonds or other obligations are rated at the time of purchase in the three highest classifications established by at least one nationally recognized standard rating service and purchased through a registered securities broker or dealer.

(c) The aggregate value of the bonds or other obligations does not exceed twenty per cent of

interim moneys available for investment at the time of purchase.

(d) The treasurer or governing board is not the sole purchaser of the bonds or other obligations at original issuance.

No investment shall be made under division (B)(4) of this section unless the treasurer or governing board has completed additional training for making the investments authorized by division (B)(4) of this section. The type and amount of additional training shall be approved by the treasurer of state and may be conducted by or provided under the supervision of the treasurer of state.

(5) No-load money market mutual funds consisting exclusively of obligations described in division (B)(1) or (2) of this section and repurchase agreements secured by such obligations, provided that investments in securities described in this division are made only through eligible institutions mentioned in section 135.03 of the Revised Code;

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

(7) Up to forty per cent of interim moneys available for investment in either of the following:

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

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

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

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

(iv) The investment in commercial paper notes of a single issuer shall not exceed in the aggregate five per cent of interim moneys available for investment at the time of purchase.

(b) Bankers acceptances of banks that are insured by the federal deposit insurance corporation and that mature not later than one hundred eighty days after purchase.

No investment shall be made pursuant to division (B)(7) of this section unless the treasurer or governing board has completed additional training for making the investments authorized by division (B)(7) of this section. The type and amount of additional training shall be approved by the treasurer of state and may be conducted by or provided under the supervision of the treasurer of state.

(C) Nothing in the classifications of eligible obligations set forth in divisions (B)(1) to (7) of this section shall be construed to authorize any investment in a derivative, and no treasurer or governing board shall invest in a derivative. For purposes of this division, "derivative" means a financial instrument or contract or obligation whose value or return is based upon or linked to another asset or index, or both, separate from the financial instrument, contract, or obligation itself. Any security, obligation, trust account, or other instrument that is created from an issue of the United States treasury or is created from an obligation of a federal agency or instrumentality or is created from both is considered a derivative instrument. An eligible investment described in this section with a variable interest rate payment, based upon a single interest payment or single index comprised of other eligible investments provided for in division (B)(1) or (2) of this section, is not a derivative, provided that such variable rate investment has a maximum maturity of two years.

(D) Except as provided in division (E) of this section, any investment made pursuant to this section must mature within five years from the date of settlement, unless the investment is matched

to a specific obligation or debt of the subdivision.

(E) The treasurer or governing board may also enter into a written repurchase agreement with any eligible institution mentioned in section 135.03 of the Revised Code or any eligible dealer pursuant to division (M) of this section, under the terms of which agreement the treasurer or governing board purchases, and such institution or dealer agrees unconditionally to repurchase any of the securities listed in divisions (D)(1) to (5), except letters of credit described in division (D)(2), of section 135.18 of the Revised Code. The market value of securities subject to an overnight written repurchase agreement must exceed the principal value of the overnight written repurchase agreement by at least two per cent. A written repurchase agreement shall not exceed thirty days and the market value of securities subject to a written repurchase agreement must exceed the principal value of the written repurchase agreement by at least two per cent and be marked to market daily. All securities purchased pursuant to this division shall be delivered into the custody of the treasurer or governing board or an agent designated by the treasurer or governing board. A written repurchase agreement with an eligible securities dealer shall be transacted on a delivery versus payment basis. The agreement shall contain the requirement that for each transaction pursuant to the agreement the participating institution or dealer shall provide all of the following information:

- (1) The par value of the securities;
- (2) The type, rate, and maturity date of the securities;
- (3) A numerical identifier generally accepted in the securities industry that designates the securities.

No treasurer or governing board shall enter into a written repurchase agreement under the terms of which the treasurer or governing board agrees to sell securities owned by the subdivision to a purchaser and agrees with that purchaser to unconditionally repurchase those securities.

(F) No treasurer or governing board shall make an investment under this section, unless the treasurer or governing board, at the time of making the investment, reasonably expects that the investment can be held until its maturity.

(G) No treasurer or governing board shall pay interim moneys into a fund established by another subdivision, treasurer, governing board, or investing authority, if that fund was established for the purpose of investing the public moneys of other subdivisions. This division does not apply to the payment of public moneys into either of the following:

- (1) The Ohio subdivision's fund pursuant to division (B)(6) of this section;
- (2) A fund created solely for the purpose of acquiring, constructing, owning, leasing, or operating municipal utilities pursuant to the authority provided under section 715.02 of the Revised Code or Section 4 of Article XVIII, Ohio Constitution.

For purposes of division (G) of this section, "subdivision" includes a county.

(H) The use of leverage, in which the treasurer or governing board uses its current investment assets as collateral for the purpose of purchasing other assets, is prohibited. The issuance of taxable notes for the purpose of arbitrage is prohibited. Contracting to sell securities that have not yet been acquired by the treasurer or governing board, for the purpose of purchasing such securities on the speculation that bond prices will decline, is prohibited.

(I) Whenever, during a period of designation, the treasurer classifies public moneys as interim moneys, the treasurer shall notify the governing board of such action. The notification shall be given

within thirty days after such classification and in the event the governing board does not concur in such classification or in the investments or deposits made under this section, the governing board may order the treasurer to sell or liquidate any of such investments or deposits, and any such order shall specifically describe the investments or deposits and fix the date upon which they are to be sold or liquidated. Investments or deposits so ordered to be sold or liquidated shall be sold or liquidated for cash by the treasurer on the date fixed in such order at the then current market price. Neither the treasurer nor the members of the board shall be held accountable for any loss occasioned by sales or liquidations of investments or deposits at prices lower than their cost. Any loss or expense incurred in making such sales or liquidations is payable as other expenses of the treasurer's office.

(J) If any investments or deposits purchased under the authority of this section are issuable to a designated payee or to the order of a designated payee, the name of the treasurer and the title of the treasurer's office shall be so designated. If any such securities are registrable either as to principal or interest, or both, then such securities shall be registered in the name of the treasurer as such.

(K) The treasurer is responsible for the safekeeping of all documents evidencing a deposit or investment acquired by the treasurer under this section. Any securities may be deposited for safekeeping with a qualified trustee as provided in section 135.18 of the Revised Code, except the delivery of securities acquired under any repurchase agreement under this section shall be made to a qualified trustee, provided, however, that the qualified trustee shall be required to report to the treasurer, governing board, auditor of state, or an authorized outside auditor at any time upon request as to the identity, market value, and location of the document evidencing each security, and that if the participating institution is a designated depository of the subdivision for the current period of designation, the securities that are the subject of the repurchase agreement may be delivered to the treasurer or held in trust by the participating institution on behalf of the subdivision. Interest earned on any investments or deposits authorized by this section shall be collected by the treasurer and credited by the treasurer to the proper fund of the subdivision.

Upon the expiration of the term of office of a treasurer or in the event of a vacancy in the office of treasurer by reason of death, resignation, removal from office, or otherwise, the treasurer or the treasurer's legal representative shall transfer and deliver to the treasurer's successor all documents evidencing a deposit or investment held by the treasurer. For the investments and deposits so transferred and delivered, such treasurer shall be credited with and the treasurer's successor shall be charged with the amount of money held in such investments and deposits.

(L) Whenever investments or deposits acquired under this section mature and become due and payable, the treasurer shall present them for payment according to their tenor, and shall collect the moneys payable thereon. The moneys so collected shall be treated as public moneys subject to sections 135.01 to 135.21 of the Revised Code.

(M)(1) All investments, except for investments in securities described in divisions (B)(5) and (6) of this section and for investments by a municipal corporation in the issues of such municipal corporation, shall be made only through a member of the financial industry regulatory authority (FINRA), through a bank, savings bank, or savings and loan association regulated by the superintendent of financial institutions, or through an institution regulated by the comptroller of the currency, federal deposit insurance corporation, or board of governors of the federal reserve system.

(2) Payment for investments shall be made only upon the delivery of securities representing

such investments to the treasurer, governing board, or qualified trustee. If the securities transferred are not represented by a certificate, payment shall be made only upon receipt of confirmation of transfer from the custodian by the treasurer, governing board, or qualified trustee.

(N) In making investments authorized by this section, a treasurer or governing board may retain the services of an investment advisor, provided the advisor is licensed by the division of securities under section 1707.141 of the Revised Code or is registered with the securities and exchange commission, and possesses experience in public funds investment management, specifically in the area of state and local government investment portfolios, or the advisor is an eligible institution mentioned in section 135.03 of the Revised Code.

(O)(1) Except as otherwise provided in divisions (O)(2) and (3) of this section, no treasurer or governing board shall make an investment or deposit under this section, unless there is on file with the auditor of state a written investment policy approved by the treasurer or governing board. The policy shall require that all entities conducting investment business with the treasurer or governing board shall sign the investment policy of that subdivision. All brokers, dealers, and financial institutions, described in division (M)(1) of this section, initiating transactions with the treasurer or governing board by giving advice or making investment recommendations shall sign the treasurer's or governing board's investment policy thereby acknowledging their agreement to abide by the policy's contents. All brokers, dealers, and financial institutions, described in division (M)(1) of this section, executing transactions initiated by the treasurer or governing board, having read the policy's contents, shall sign the investment policy thereby acknowledging their comprehension and receipt.

(2) If a written investment policy described in division (O)(1) of this section is not filed on behalf of the subdivision with the auditor of state, the treasurer or governing board of that subdivision shall invest the subdivision's interim moneys only in interim deposits pursuant to division (B)(3) of this section or interim deposits pursuant to section 135.145 of the Revised Code and approved by the treasurer of state, no-load money market mutual funds pursuant to division (B)(5) of this section, or the Ohio subdivision's fund pursuant to division (B)(6) of this section.

(3) Divisions (O)(1) and (2) of this section do not apply to a treasurer or governing board of a subdivision whose average annual portfolio of investments held pursuant to this section is one hundred thousand dollars or less, provided that the treasurer or governing board certifies, on a form prescribed by the auditor of state, that the treasurer or governing board will comply and is in compliance with the provisions of sections 135.01 to 135.21 of the Revised Code.

(P) A treasurer or governing board may enter into a written investment or deposit agreement that includes a provision under which the parties agree to submit to nonbinding arbitration to settle any controversy that may arise out of the agreement, including any controversy pertaining to losses of public moneys resulting from investment or deposit. The arbitration provision shall be set forth entirely in the agreement, and the agreement shall include a conspicuous notice to the parties that any party to the arbitration may apply to the court of common pleas of the county in which the arbitration was held for an order to vacate, modify, or correct the award. Any such party may also apply to the court for an order to change venue to a court of common pleas located more than one hundred miles from the county in which the treasurer or governing board is located.

For purposes of this division, "investment or deposit agreement" means any agreement between a treasurer or governing board and a person, under which agreement the person agrees to

invest, deposit, or otherwise manage a subdivision's interim moneys on behalf of the treasurer or governing board, or agrees to provide investment advice to the treasurer or governing board.

(Q) An investment made by the treasurer or governing board pursuant to this section prior to September 27, 1996, that was a legal investment under the law as it existed before September 27, 1996, may be held until maturity.

**Sec. 135.144.** (A) In addition to the authority provided in section 135.14 or 135.143 of the Revised Code, the treasurer of state or the treasurer or governing board of a political subdivision may invest interim moneys in certificates of deposit in accordance with all of the following:

(1) The interim moneys initially are deposited with an eligible public depository described in section 135.03 of the Revised Code and selected, pursuant to section 135.12 of the Revised Code, by the treasurer of state or the treasurer or governing board of a political subdivision, for interim moneys of the state or of the political subdivision.

(2) For the treasurer of state or the treasurer or governing board of the political subdivision depositing the interim moneys pursuant to division (A)(1) of this section, the eligible public depository selected pursuant to that division invests the interim moneys in certificates of deposit of one or more federally insured banks, savings banks, or savings and loan associations, wherever located. The full amount of principal and any accrued interest of each certificate of deposit invested in pursuant to division (A)(2) of this section shall be insured by federal deposit insurance.

(3) For the treasurer of state or the treasurer or governing board of the political subdivision depositing the interim moneys pursuant to division (A)(1) of this section, the eligible public depository selected pursuant to that division acts as custodian of the certificates of deposit described in division (A)(2) of this section.

(4) On the same date the public moneys are redeposited by the public depository, the public depository may, in its sole discretion, choose whether to receive deposits, in any amount, from other banks, savings banks, or savings and loan associations.

(5) The public depository provides to the treasurer of state or the treasurer or governing board of a political subdivision a monthly account statement that includes the amount of its funds deposited and held at each bank, savings bank, or savings and loan association for which the public depository acts as a custodian pursuant to this section.

(B) Interim moneys deposited or invested in accordance with division (A) of this section are not subject to any pledging requirements described in section 135.18, 135.181, or 135.182 of the Revised Code.

**Sec. 135.145.** (A) In addition to the authority provided in section 135.14 or 135.143 of the Revised Code for the investment or deposit of interim moneys, the treasurer of state or the treasurer or governing board of a political subdivision, upon the deposit of interim moneys with, or the award of active or inactive deposits to, an eligible public depository described in section 135.03 of the Revised Code and designated pursuant to section 135.12 of the Revised Code, may authorize the public depository to arrange for the redeposit of such public moneys in accordance with the following conditions:

(1) The public depository, on or after the date the public moneys are received, arranges for the redeposit of the moneys into deposit accounts in one or more federally insured banks, savings banks, or savings and loan associations that are located in the United States, and acts as custodian of



the moneys deposited or redeposited under this section.

(2) If the amount of the public moneys deposited with and held at the close of business by the public depository exceeds the amount insured by the federal deposit insurance corporation, the excess amount is subject to the pledging requirements described in section 135.18, 135.181, or 135.182 of the Revised Code.

(3) The full amount of the public moneys redeposited by the public depository into deposit accounts in banks, savings banks, or savings and loan associations, plus any accrued interest, is insured by the federal deposit insurance corporation.

(4) On the same date the public moneys are redeposited by the public depository, the public depository may, in its sole discretion, choose whether to receive deposits, in any amount, from other banks, savings banks, or savings and loan associations.

(5) The public depository provides to the treasurer of state or the treasurer or governing board of a political subdivision an account statement at least monthly and access to daily reporting that include the amount of its funds deposited and held at each bank, savings bank, or savings and loan association for which the public depository acts as a custodian pursuant to this section.

(B) Except as provided in division (A)(2) of this section, the public moneys deposited in accordance with this section are not subject to the pledging requirements described in section 135.18, 135.181, or 135.182 of the Revised Code.

**Sec. 135.18.** (A) Each institution designated as a public depository and awarded public deposits under sections 135.01 to 135.21 of the Revised Code, except as provided in section 135.144 or 135.145 of the Revised Code, shall provide security for the repayment of all public deposits by selecting one of the following methods:

(1) Securing all uninsured public deposits of each public depositor separately as set forth in divisions (B) to (J) of this section;

(2) Securing all uninsured public deposits of every public depositor pursuant to section 135.181 or 135.182 of the Revised Code, as applicable, by establishing and pledging to the treasurer of state a single pool of collateral for the benefit of every public depositor at the public depository.

(B) If a public depository elects to provide security pursuant to division (A)(1) of this section, the public depository shall pledge to the public depositor, as security for the repayment of all public moneys deposited in the public depository during the period of designation pursuant to an award made under sections 135.01 to 135.21 of the Revised Code, eligible securities of aggregate market value at all times equal to at least one hundred five per cent of the total amount of the public depositor's uninsured public deposits.

(C) In order for a public depository to receive public moneys under this section, the public depository and the public depositor shall first execute an agreement that sets forth the entire arrangement among the parties and that meets the requirements described in 12 U.S.C. 1823(e). In addition, the agreement shall authorize the public depositor to obtain control of the collateral pursuant to division (D) of section 1308.24 of the Revised Code.

(D) The following securities or other obligations shall be eligible for the purposes of this section:

(1) Bonds, notes, or other obligations of the United States; or bonds, notes, or other obligations guaranteed as to principal and interest by the United States or those for which the faith of

the United States is pledged for the payment of principal and interest thereon, by language appearing in the instrument specifically providing such guarantee or pledge and not merely by interpretation or otherwise;

(2) Bonds, notes, debentures, letters of credit, or other obligations or securities issued by any federal government agency or instrumentality, or the export-import bank of Washington; bonds, notes, or other obligations guaranteed as to principal and interest by the United States or those for which the faith of the United States is pledged for the payment of principal and interest thereon, by interpretation or otherwise and not by language appearing in the instrument specifically providing such guarantee or pledge;

(3) Obligations of or fully insured or fully guaranteed by the United States or any federal government agency or instrumentality;

(4) Obligations partially insured or partially guaranteed by any federal agency or instrumentality;

(5) Obligations of or fully guaranteed by the federal national mortgage association, federal home loan mortgage corporation, federal farm credit bank, or student loan marketing association;

(6) Bonds and other obligations of this state;

(7) Bonds and other obligations of any county, township, school district, municipal corporation, or other legally constituted taxing subdivision of this state, which is not at the time of such deposit, in default in the payment of principal or interest on any of its bonds or other obligations, for which the full faith and credit of the issuing subdivision is pledged;

(8) Bonds of other states of the United States which have not during the ten years immediately preceding the time of such deposit defaulted in payments of either interest or principal on any of their bonds;

(9) Shares of no-load money market mutual funds consisting exclusively of obligations described in division (D)(1) or (2) of this section and repurchase agreements secured by such obligations;

(10) A surety bond issued by a corporate surety licensed by the state and authorized to issue surety bonds in this state pursuant to Chapter 3929. of the Revised Code, and qualified to provide surety bonds to the federal government pursuant to 96 Stat. 1047 (1982), 31 U.S.C.A. 9304;

(11) Bonds or other obligations of any county, municipal corporation, or other legally constituted taxing subdivision of another state of the United States, or of any instrumentality of such county, municipal corporation, or other taxing subdivision, for which the full faith and credit of the issuer is pledged and, at the time of purchase of the bonds or other obligations, rated in one of the two highest categories by at least one nationally recognized statistical rating organization.

(E) An institution designated as a public depository shall designate a qualified trustee and place the eligible securities required by division (D) of this section with the trustee for safekeeping. The trustee shall hold the eligible securities in an account indicating the public depositor's security interest in the securities. The trustee shall report to the public depositor information relating to the securities pledged to secure the public deposits in the manner and frequency required by the public depositor.

(F) The qualified trustee shall enter into a custodial agreement with the public depositor and public depository in which the trustee agrees to comply with entitlement orders originated by the

public depositor without further consent by the public depository or, in the case of collateral held by the public depository in an account at a federal reserve bank, the public depositor shall have the public depositor's security interest marked on the books of the federal reserve bank where the account for the collateral is maintained. If the public depository fails to pay over any part of the public deposits made by the public depositor therein as provided by law, the public depositor shall give written notice of this failure to the qualified trustee holding the securities pledged against its public deposits and, at the same time, shall send a copy of this notice to the public depository. Upon receipt of this notice, the trustee shall transfer to the public depositor for sale, the securities that are necessary to produce an amount equal to the public deposits made by the public depositor and not paid over, less the portion of the deposits covered by any federal deposit insurance, plus any accrued interest due on the deposits. The public depositor shall sell any of the bonds or other securities so transferred. When a sale of bonds or other securities has been so made and upon payment to the public depositor of the purchase money, the public depositor shall transfer such bonds or securities whereupon the absolute ownership of such bonds or securities shall pass to the purchasers. Any surplus after deducting the amount due the public depositor and expenses of sale shall be paid to the public depository.

(G) When the public depository has placed eligible securities described in division (D)(1) of this section with a trustee for safekeeping, the public depository may at any time substitute or exchange eligible securities described in division (D)(1) of this section having a current market value equal to or greater than the current market value of the securities then on deposit and for which they are to be substituted or exchanged, without specific authorization from any public depositor's governing board, boards, or treasurer of any such substitution or exchange.

(H) When the public depository has placed eligible securities described in divisions (D)(2) to (9) of this section with a trustee for safekeeping, the public depository may at any time substitute or exchange eligible securities having a current market value equal to or greater than the current market value of the securities then on deposit and for which they are to be substituted or exchanged without specific authorization of any public depositor's governing board, boards, or treasurer of any such substitution or exchange only if one of the following applies:

(1) The public depositor has authorized the public depository to make such substitution or exchange on a continuing basis during a specified period without prior approval of each substitution or exchange. The authorization may be effected by the public depositor sending to the trustee a written notice stating that substitution may be effected on a continuing basis during a specified period which shall not extend beyond the end of the period of designation during which the notice is given. The trustee may rely upon this notice and upon the period of authorization stated therein and upon the period of designation stated therein.

(2) The public depository notifies the public depositor and the trustee of an intended substitution or exchange, and the public depositor does not object to the trustee as to the eligibility or market value of the securities being substituted within three business days after the date appearing on the notice of proposed substitution. The notice to the public depositor and to the trustee shall be given in writing and delivered electronically. The trustee may assume in any case that the notice has been delivered to the public depositor. In order for objections of the public depositor to be effective, receipt of the objections must be acknowledged in writing by the trustee.

(3) The public depositor gives written authorization for a substitution or exchange of specific securities.

(I) The public depository shall notify any public depositor of any substitution or exchange under division (H)(1) or (2) of this section.

(J) Any federal reserve bank or branch thereof located in this state or federal home loan bank, without compliance with Chapter 1111. of the Revised Code and without becoming subject to any other law of this state relative to the exercise by corporations of trust powers generally, is qualified to act as trustee for the safekeeping of securities, under this section. Any institution mentioned in section 135.03 or 135.32 of the Revised Code that holds a certificate of qualification issued by the superintendent of financial institutions or any institution complying with sections 1111.04, 1111.05, and 1111.06 of the Revised Code, is qualified to act as trustee for the safekeeping of securities under this section, other than those belonging to itself or to an affiliate as defined in section 1101.01 of the Revised Code.

Notwithstanding the fact that a public depository is required to pledge eligible securities in certain amounts to secure deposits of public moneys, a trustee has no duty or obligation to determine the eligibility, market value, or face value of any securities deposited with the trustee by a public depository. This applies in all situations including, without limitation, a substitution or exchange of securities.

Any charges or compensation of a designated trustee for acting as such under this section shall be paid by the public depository and in no event shall be chargeable to the state or the subdivision or to any officer of the state or subdivision. The charges or compensation shall not be a lien or charge upon the securities deposited for safekeeping prior or superior to the rights to and interests in the securities of the public depositor. The treasurer and the treasurer's bonders or surety shall be relieved from any liability to the public depositor or to the public depository for the loss or destruction of any securities deposited with a qualified trustee pursuant to this section.

**Sec. 135.181.** (A) As used in this section:

(1) "Public depository" means that term as defined in section 135.01 of the Revised Code, but also means an institution which receives or holds any public deposits as defined in section 135.31 of the Revised Code.

(2) "Public deposits," "public moneys," and "treasurer" mean those terms as defined in section 135.01 of the Revised Code, but also have the same meanings as are set forth in section 135.31 of the Revised Code.

(3) "Subdivision" means that term as defined in section 135.01 of the Revised Code, but also includes a county.

(B) Prior to the creation of the Ohio pooled collateral program under section 135.182 of the Revised Code, in lieu of the pledging requirements prescribed in sections 135.18 and 135.37 of the Revised Code, an institution designated as a public depository at its option may pledge a single pool of eligible securities to secure the repayment of all public moneys deposited in the institution and not otherwise secured pursuant to law, provided that at all times the total market value of the securities so pledged is at least equal to one hundred five per cent of the total amount of all public deposits to be secured by the pooled securities that are not covered by any federal deposit insurance. Each institution shall carry in its accounting records at all times a general ledger or other appropriate

account of the total amount of all public deposits to be secured by the pool, as determined at the opening of business each day, and the total market value of securities pledged to secure such deposits.

(C) The securities described in division (B) of section 135.18 of the Revised Code shall be eligible as collateral for the purposes of division (B) of this section, provided no such securities pledged as collateral are at any time in default as to either principal or interest.

(D) The state and each subdivision shall have an undivided security interest in the pool of securities pledged by a public depository pursuant to division (B) of this section in the proportion that the total amount of the state's or subdivision's public moneys secured by the pool bears to the total amount of public deposits so secured.

(E) An institution designated as a public depository shall designate a qualified trustee and deposit with the trustee for safekeeping the eligible securities pledged pursuant to division (B) of this section. The institution shall give written notice of the qualified trustee to any treasurer or treasurers depositing public moneys for which such securities are pledged. The treasurer shall accept the written receipt of the trustee describing the pool of securities so deposited by the depository, a copy of which also shall be delivered to the depository.

(F) Any federal reserve bank or branch thereof located in this state or federal home loan bank, without compliance with Chapter 1111. of the Revised Code and without becoming subject to any other law of this state relative to the exercise by corporations of trust powers generally, is qualified to act as trustee for the safekeeping of securities, under this section. Any institution mentioned in section 135.03 or 135.32 of the Revised Code which holds a certificate of qualification issued by the superintendent of financial institutions or any institution complying with sections 1111.04, 1111.05, and 1111.06 of the Revised Code is qualified to act as trustee for the safekeeping of securities under this section, other than those belonging to itself or to an affiliate as defined in division (A) of section 1101.01 of the Revised Code. Upon application to the superintendent in writing by an institution, the superintendent shall investigate the applicant and ascertain whether or not it has been authorized to execute and accept trusts in this state and has safe and adequate vaults and efficient supervision thereof for the storage and safekeeping of securities. If the superintendent finds that the applicant has been so authorized and has such vaults and supervision thereof, the superintendent shall approve the application and issue a certificate to that effect, the original or any certified copy of which shall be conclusive evidence that the institution named therein is qualified to act as trustee for the purposes of this section with respect to securities other than those belonging to itself or to an affiliate.

(G) The public depository at any time may substitute, exchange, or release eligible securities deposited with a qualified trustee pursuant to this section, provided that such substitution, exchange, or release does not reduce the total market value of the securities to an amount that is less than one hundred five per cent of the total amount of public deposits as determined pursuant to division (B) of this section.

(H) Notwithstanding the fact that a public depository is required to pledge eligible securities in certain amounts to secure deposits of public moneys, a trustee has no duty or obligation to determine the eligibility, market value, or face value of any securities deposited with the trustee by a public depository. This applies in all situations including, but not limited to, a substitution or exchange of securities, but excluding those situations effectuated by division (I) of this section in

which the trustee is required to determine face and market value.

(I) If the public depository fails to pay over any part of the public deposits made therein as provided by law and secured pursuant to division (B) of this section, the treasurer shall give written notice of this failure to the qualified trustee holding the pool of securities pledged against public moneys deposited in the depository, and at the same time shall send a copy of this notice to the depository. Upon receipt of this notice, the trustee shall transfer to the treasurer for public sale, the pooled securities that are necessary to produce an amount equal to the deposits made by the treasurer and not paid over, less the portion of the deposits covered by any federal deposit insurance, plus any accrued interest due on the deposits; however, the amount shall not exceed the state's or subdivision's proportional security interest in the market value of the pool as of the date of the depository's failure to pay over the deposits, as that interest and value are determined by the trustee. The treasurer shall sell at public sale any of the bonds or other securities so transferred. Thirty days' notice of the sale shall be given in a newspaper of general circulation at Columbus, in the case of the treasurer of state, and at the county seat of the county in which the office of the treasurer is located, in the case of any other treasurer. When a sale of bonds or other securities has been so made and upon payment to the treasurer of the purchase money, the treasurer shall transfer such bonds or securities whereupon the absolute ownership of such bonds or securities shall pass to the purchasers. Any surplus after deducting the amount due the state or subdivision and expenses of sale shall be paid to the public depository.

(J) Any charges or compensation of a designated trustee for acting as such under this section shall be paid by the public depository and in no event shall be chargeable to the state or subdivision or to the treasurer or to any officer of the state or subdivision. The charges or compensation shall not be a lien or charge upon the securities deposited for safekeeping prior or superior to the rights to and interests in the securities of the state or subdivision or of the treasurer. The treasurer and the treasurer's bonders or surety shall be relieved from any liability to the state or subdivision or to the public depository for the loss or destruction of any securities deposited with a qualified trustee pursuant to this section.

(K) In lieu of placing its unqualified endorsement on each security, a public depository pledging securities pursuant to division (B) of this section that are not negotiable without its endorsement or assignment may furnish to the qualified trustee holding the securities an appropriate resolution and irrevocable power of attorney authorizing the trustee to assign the securities. The resolution and power of attorney shall conform to terms and conditions the trustee prescribes.

(L) Upon request of a treasurer no more often than four times per year, a public depository shall report the amount of public moneys deposited by the treasurer and secured pursuant to division (B) of this section, and the total market value of the pool of securities pledged to secure public moneys held by the depository, including those deposited by the treasurer. Upon request of a treasurer no more often than four times per year, a qualified trustee shall report the total market value of the pool of securities deposited with it by the depository and shall provide an itemized list of the securities in the pool. These reports shall be made as of the date the treasurer specifies.

**Sec. 135.182.**

**Sec. 135.35.** (A) The investing authority shall deposit or invest any part or all of the county's inactive moneys and shall invest all of the money in the county public library fund when required by

section 135.352 of the Revised Code. The following classifications of securities and obligations are eligible for such deposit or investment:

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

Nothing in the classification of eligible securities and obligations set forth in divisions (A)(2) to (10) of this section shall be construed to authorize any investment in stripped principal or interest obligations of such eligible securities and obligations.

(2) Bonds, notes, debentures, or any other obligations or securities issued by any federal government agency or instrumentality, including, but not limited to, the federal national mortgage association, federal home loan bank, federal farm credit bank, federal home loan mortgage corporation, and government national mortgage association. All federal agency securities shall be direct issuances of federal government agencies or instrumentalities.

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

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

(5) No-load money market mutual funds rated in the highest category at the time of purchase by at least one nationally recognized standard rating service or consisting exclusively of obligations described in division (A)(1), (2), or (6) of section 135.143 of the Revised Code and repurchase agreements secured by such obligations, provided that investments in securities described in this division are made only through eligible institutions mentioned in section 135.32 of the Revised Code;

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

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

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

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

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

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

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

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

(iv) The investment in commercial paper notes of a single issuer shall not exceed in the aggregate five per cent of interim moneys available for investment at the time of purchase.

(b) Bankers acceptances of banks that are insured by the federal deposit insurance corporation and that mature not later than one hundred eighty days after purchase.

No investment shall be made pursuant to division (A)(8) of this section unless the investing authority has completed additional training for making the investments authorized by division (A)(8) of this section. The type and amount of additional training shall be approved by the treasurer of state and may be conducted by or provided under the supervision of the treasurer of state.

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

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

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

(10) Debt interests rated at the time of purchase in the three highest categories by two nationally recognized standard rating services and issued by foreign nations diplomatically recognized by the United States government. All interest and principal shall be denominated and payable in United States funds. The investments made under division (A)(10) of this section shall not exceed in the aggregate two per cent of a county's total average portfolio.

The investing authority shall invest under division (A)(10) of this section in a debt interest issued by a foreign nation only if the debt interest is backed by the full faith and credit of that foreign nation, there is no prior history of default, and the debt interest matures not later than five years after purchase. For purposes of division (A)(10) of this section, a debt interest is rated in the three highest categories by two nationally recognized standard rating services if either the debt interest itself or the issuer of the debt interest is rated, or is implicitly rated, at the time of purchase in the three highest categories by two nationally recognized standard rating services.

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

(B) Nothing in the classifications of eligible obligations and securities set forth in divisions (A)(1) to (10) of this section shall be construed to authorize investment in a derivative, and no investing authority shall invest any county inactive moneys or any moneys in a county public library fund in a derivative. For purposes of this division, "derivative" means a financial instrument or contract or obligation whose value or return is based upon or linked to another asset or index, or both, separate from the financial instrument, contract, or obligation itself. Any security, obligation, trust account, or other instrument that is created from an issue of the United States treasury or is created from an obligation of a federal agency or instrumentality or is created from both is considered a



derivative instrument. An eligible investment described in this section with a variable interest rate payment, based upon a single interest payment or single index comprised of other eligible investments provided for in division (A)(1) or (2) of this section, is not a derivative, provided that such variable rate investment has a maximum maturity of two years. A treasury inflation-protected security shall not be considered a derivative, provided the security matures not later than five years after purchase.

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

(D) The investing authority may also enter into a written repurchase agreement with any eligible institution mentioned in section 135.32 of the Revised Code or any eligible securities dealer pursuant to division (J) of this section, under the terms of which agreement the investing authority purchases and the eligible institution or dealer agrees unconditionally to repurchase any of the securities listed in divisions (D)(1) to (5), except letters of credit described in division (D)(2), of section 135.18 of the Revised Code. The market value of securities subject to an overnight written repurchase agreement must exceed the principal value of the overnight written repurchase agreement by at least two per cent. A written repurchase agreement must exceed the principal value of the overnight written repurchase agreement, by at least two per cent. A written repurchase agreement shall not exceed thirty days, and the market value of securities subject to a written repurchase agreement must exceed the principal value of the written repurchase agreement by at least two per cent and be marked to market daily. All securities purchased pursuant to this division shall be delivered into the custody of the investing authority or the qualified custodian of the investing authority or an agent designated by the investing authority. A written repurchase agreement with an eligible securities dealer shall be transacted on a delivery versus payment basis. The agreement shall contain the requirement that for each transaction pursuant to the agreement the participating institution shall provide all of the following information:

- (1) The par value of the securities;
- (2) The type, rate, and maturity date of the securities;
- (3) A numerical identifier generally accepted in the securities industry that designates the securities.

No investing authority shall enter into a written repurchase agreement under the terms of which the investing authority agrees to sell securities owned by the county to a purchaser and agrees with that purchaser to unconditionally repurchase those securities.

(E) No investing authority shall make an investment under this section, unless the investing authority, at the time of making the investment, reasonably expects that the investment can be held until its maturity. The investing authority's written investment policy shall specify the conditions under which an investment may be redeemed or sold prior to maturity.

(F) No investing authority shall pay a county's inactive moneys or moneys of a county public library fund into a fund established by another subdivision, treasurer, governing board, or investing authority, if that fund was established by the subdivision, treasurer, governing board, or investing

authority for the purpose of investing or depositing the public moneys of other subdivisions. This division does not apply to the payment of public moneys into either of the following:

- (1) The Ohio subdivision's fund pursuant to division (A)(6) of this section;
- (2) A fund created solely for the purpose of acquiring, constructing, owning, leasing, or operating municipal utilities pursuant to the authority provided under section 715.02 of the Revised Code or Section 4 of Article XVIII, Ohio Constitution.

For purposes of division (F) of this section, "subdivision" includes a county.

(G) The use of leverage, in which the county uses its current investment assets as collateral for the purpose of purchasing other assets, is prohibited. The issuance of taxable notes for the purpose of arbitrage is prohibited. Contracting to sell securities not owned by the county, for the purpose of purchasing such securities on the speculation that bond prices will decline, is prohibited.

(H) Any securities, certificates of deposit, deposit accounts, or any other documents evidencing deposits or investments made under authority of this section shall be issued in the name of the county with the county treasurer or investing authority as the designated payee. If any such deposits or investments are registrable either as to principal or interest, or both, they shall be registered in the name of the treasurer.

(I) The investing authority shall be responsible for the safekeeping of all documents evidencing a deposit or investment acquired under this section, including, but not limited to, safekeeping receipts evidencing securities deposited with a qualified trustee, as provided in section 135.37 of the Revised Code, and documents confirming the purchase of securities under any repurchase agreement under this section shall be deposited with a qualified trustee, provided, however, that the qualified trustee shall be required to report to the investing authority, auditor of state, or an authorized outside auditor at any time upon request as to the identity, market value, and location of the document evidencing each security, and that if the participating institution is a designated depository of the county for the current period of designation, the securities that are the subject of the repurchase agreement may be delivered to the treasurer or held in trust by the participating institution on behalf of the investing authority.

Upon the expiration of the term of office of an investing authority or in the event of a vacancy in the office for any reason, the officer or the officer's legal representative shall transfer and deliver to the officer's successor all documents mentioned in this division for which the officer has been responsible for safekeeping. For all such documents transferred and delivered, the officer shall be credited with, and the officer's successor shall be charged with, the amount of moneys evidenced by such documents.

(J)(1) All investments, except for investments in securities described in divisions (A)(5), (6), and (11) of this section, shall be made only through a member of the financial industry regulatory authority (FINRA), through a bank, savings bank, or savings and loan association regulated by the superintendent of financial institutions, or through an institution regulated by the comptroller of the currency, federal deposit insurance corporation, or board of governors of the federal reserve system.

(2) Payment for investments shall be made only upon the delivery of securities representing such investments to the treasurer, investing authority, or qualified trustee. If the securities transferred are not represented by a certificate, payment shall be made only upon receipt of confirmation of transfer from the custodian by the treasurer, governing board, or qualified trustee.

(K)(1) Except as otherwise provided in division (K)(2) of this section, no investing authority shall make an investment or deposit under this section, unless there is on file with the auditor of state a written investment policy approved by the investing authority. The policy shall require that all entities conducting investment business with the investing authority shall sign the investment policy of that investing authority. All brokers, dealers, and financial institutions, described in division (J)(1) of this section, initiating transactions with the investing authority by giving advice or making investment recommendations shall sign the investing authority's investment policy thereby acknowledging their agreement to abide by the policy's contents. All brokers, dealers, and financial institutions, described in division (J)(1) of this section, executing transactions initiated by the investing authority, having read the policy's contents, shall sign the investment policy thereby acknowledging their comprehension and receipt.

(2) If a written investment policy described in division (K)(1) of this section is not filed on behalf of the county with the auditor of state, the investing authority of that county shall invest the county's inactive moneys and moneys of the county public library fund only in time certificates of deposits or savings or deposit accounts pursuant to division (A)(3) of this section, no-load money market mutual funds pursuant to division (A)(5) of this section, or the Ohio subdivision's fund pursuant to division (A)(6) of this section.

(L)(1) The investing authority shall establish and maintain an inventory of all obligations and securities acquired by the investing authority pursuant to this section. The inventory shall include a description of each obligation or security, including type, cost, par value, maturity date, settlement date, and any coupon rate.

(2) The investing authority shall also keep a complete record of all purchases and sales of the obligations and securities made pursuant to this section.

(3) The investing authority shall maintain a monthly portfolio report and issue a copy of the monthly portfolio report describing such investments to the county investment advisory committee, detailing the current inventory of all obligations and securities, all transactions during the month that affected the inventory, any income received from the obligations and securities, and any investment expenses paid, and stating the names of any persons effecting transactions on behalf of the investing authority.

(4) The monthly portfolio report shall be a public record and available for inspection under section 149.43 of the Revised Code.

(5) The inventory and the monthly portfolio report shall be filed with the board of county commissioners. The monthly portfolio report also shall be filed with the treasurer of state.

(M) An investing authority may enter into a written investment or deposit agreement that includes a provision under which the parties agree to submit to nonbinding arbitration to settle any controversy that may arise out of the agreement, including any controversy pertaining to losses of public moneys resulting from investment or deposit. The arbitration provision shall be set forth entirely in the agreement, and the agreement shall include a conspicuous notice to the parties that any party to the arbitration may apply to the court of common pleas of the county in which the arbitration was held for an order to vacate, modify, or correct the award. Any such party may also apply to the court for an order to change venue to a court of common pleas located more than one hundred miles from the county in which the investing authority is located.

For purposes of this division, "investment or deposit agreement" means any agreement between an investing authority and a person, under which agreement the person agrees to invest, deposit, or otherwise manage, on behalf of the investing authority, a county's inactive moneys or moneys in a county public library fund, or agrees to provide investment advice to the investing authority.

(N)(1) An investment held in the county portfolio on September 27, 1996, that was a legal investment under the law as it existed before September 27, 1996, may be held until maturity.

(2) An investment held in the county portfolio on September 10, 2012, that was a legal investment under the law as it existed before September 10, 2012, may be held until maturity.

**Sec. 135.353.** (A) In addition to the investments specified in section 135.35 of the Revised Code, the investing authority of a county may do all of the following:

(1) Invest inactive or public moneys in linked deposits as authorized by resolution adopted pursuant to section 135.80 or 135.801 of the Revised Code;

(2) Invest inactive or public moneys in linked deposits as authorized by resolution adopted pursuant to section 135.805 of the Revised Code for a term considered appropriate by the investing authority, but not exceeding fifteen years, which investment may be renewed for up to two additional terms with each additional term not exceeding fifteen years.

(3) Invest inactive moneys in certificates of deposit in accordance with all of the following:

(a) The inactive moneys initially are deposited with an eligible public depository described in section 135.32 of the Revised Code and selected by the investing authority.

(b) For the investing authority depositing the inactive moneys pursuant to division (A)(3)(a) of this section, the eligible public depository selected pursuant to that division invests the inactive moneys in certificates of deposit of one or more federally insured banks, savings banks, or savings and loan associations, wherever located. The full amount of principal and any accrued interest of each certificate of deposit invested in pursuant to division (A)(3)(b) of this section shall be insured by federal deposit insurance.

(c) For the investing authority depositing the inactive moneys pursuant to division (A)(3)(a) of this section, the eligible public depository selected pursuant to that division acts as custodian of the certificates of deposit described in division (A)(3)(b) of this section.

(d) On the same date the public moneys are redeposited by the public depository, the public depository may, in its sole discretion, choose whether to receive deposits, in any amount, from other banks, savings banks, or savings and loan associations.

(e) The public depository provides to the investing authority a monthly account statement that includes the amount of its funds deposited and held at each bank, savings bank, or savings and loan association for which the public depository acts as a custodian pursuant to this section.

(B) Inactive moneys deposited or invested in accordance with division (A)(3) of this section are not subject to any pledging requirements described in section 135.181, 135.182, or 135.37 of the Revised Code.

**Sec. 135.354.** (A) In addition to the authority provided in section 135.35 of the Revised Code for the investment or deposit of inactive moneys, the investing authority of a county, upon the deposit of active or inactive moneys with an eligible public depository described in section 135.32 of the Revised Code and selected by the investing authority, may authorize the public depository to arrange

for the redeposit of such public moneys in accordance with the following conditions:

(1) The public depository, on or after the date the public moneys are received, arranges for the redeposit of the moneys into deposit accounts in one or more federally insured banks, savings banks, or savings and loan associations that are located in the United States, and acts as custodian of the moneys deposited or redeposited under this section.

(2) If the amount of the public moneys deposited with and held at the close of business by the public depository exceeds the amount insured by the federal deposit insurance corporation, the excess amount is subject to the pledging requirements described in section 135.181, 135.182, or 135.37 of the Revised Code.

(3) The full amount of the public moneys redeposited by the public depository into deposit accounts in banks, savings banks, or savings and loan associations, plus any accrued interest, is insured by the federal deposit insurance corporation.

(4) On the same date the public moneys are redeposited by the public depository, the public depository may, in its sole discretion, choose whether to receive deposits, in any amount, from other banks, savings banks, or savings and loan associations.

(5) The public depository provides to the investing authority an account statement at least monthly and access to daily reporting that include the amount of its funds deposited and held at each bank, savings bank, or savings and loan association for which the public depository acts as a custodian pursuant to this section.

(B) Except as provided in division (A)(2) of this section, public moneys deposited in accordance with this section are not subject to the pledging requirements described in section 135.181, 135.182, or 135.37 of the Revised Code.

**Sec. 135.37.** (A) Except as provided in section 135.353 or 135.354 of the Revised Code, any institution described in section 135.32 of the Revised Code in receipt of a deposit of public moneys under section 135.33 or 135.35 of the Revised Code shall provide security for the repayment of all public moneys deposited in the public depository by selecting one of the following methods:

(1) Securing all uninsured public deposits of each investing authority separately as set forth in divisions (B) to (I) of this section;

(2) Securing all uninsured public deposits of every public depositor pursuant to section 135.181 or 135.182 of the Revised Code, as applicable, by establishing and pledging to the treasurer of state a single pool of collateral for the benefit of each public depositor at the public depository.

(B) If a public depository elects to provide security pursuant to division (A)(1) of this section, the public depository shall pledge to the investing authority, as security for the repayment of all public moneys deposited in the public depository during the period of designation pursuant to an award made under section 135.33 of the Revised Code or pursuant to section 135.35 of the Revised Code, eligible securities of aggregate market value at all times equal to at least one hundred five per cent of the total amount of the investing authority's uninsured public deposits. Any securities listed in division (D) of section 135.18 of the Revised Code are eligible for such purpose.

(C) In order for a public depository to receive public moneys under this section, the public depository and the investing authority shall first execute an agreement that sets forth the entire arrangement among the parties and that meets the requirements described in 12 U.S.C. 1823(e). In addition, the agreement shall authorize the investing authority to obtain control of the collateral

pursuant to division (D) of section 1308.24 of the Revised Code.

(D) An institution designated as a public depository shall designate a qualified trustee and place the eligible securities with the trustee for safekeeping. The trustee shall hold the eligible securities in an account indicating the investing authority's security interest in the securities. The trustee shall report to the investing authority information relating to the securities pledged to secure the public deposits in the manner and frequency requested by the investing authority.

(E) The qualified trustee shall enter into a custodial agreement with the investing authority and public depository in which the trustee agrees to comply with entitlement orders originated by the investing authority without further consent by the public depository or, in the case of collateral held by the public depository in an account at a federal reserve bank, the investing authority shall have the investing authority's security interest marked on the books of the federal reserve bank where the account for the collateral is maintained. If the public depository fails to pay over any part of the public deposits made by the investing authority therein as provided by law, the investing authority shall give written notice of this failure to the qualified trustee holding the securities pledged against its public deposits, and at the same time shall send a copy of this notice to the public depository. Upon receipt of this notice, the trustee shall transfer to the investing authority for sale, the securities that are necessary to produce an amount equal to the public deposits made by the investing authority and not paid over, less the portion of the deposits covered by any federal deposit insurance, plus any accrued interest due on the deposits. The investing authority shall sell any of the bonds or other securities so transferred. When a sale of bonds or other securities has been so made and upon payment to the investing authority of the purchase money, the investing authority shall transfer such bonds or securities whereupon the absolute ownership of such bonds or securities shall pass to the purchasers. Any surplus after deducting the amount due the investing authority and expenses of sale shall be paid to the public depository.

(F) When the public depository has placed eligible securities described in division (D)(1) of section 135.18 of the Revised Code with a trustee for safekeeping, the public depository may at any time substitute or exchange eligible securities described in division (D)(1) of section 135.18 of the Revised Code having a current market value equal to or greater than the current market value of the securities then on deposit and for which they are to be substituted or exchanged, without specific authorization from the investing authority of any such substitution or exchange.

(G) When the public depository has placed eligible securities described in divisions (D)(2) to (9) of section 135.18 of the Revised Code with a trustee for safekeeping, the public depository may at any time substitute or exchange eligible securities having a current market value equal to or greater than the current market value of the securities then on deposit and for which they are to be substituted or exchanged without specific authorization from the investing authority of any such substitution or exchange only if one of the following applies:

(1) The investing authority has authorized the public depository to make such substitution or exchange on a continuing basis during a specified period without prior approval of each substitution or exchange. The authorization may be effected by the investing authority sending to the trustee a written notice stating that substitution may be effected on a continuing basis during a specified period which shall not extend beyond the end of the period of designation during which the notice is given. The trustee may rely upon this notice and upon the period of authorization stated therein and upon

the period of designation stated therein.

(2) The public depository notifies the investing authority and the trustee of an intended substitution or exchange, and the investing authority does not object to the trustee as to the eligibility or market value of the securities being substituted within three business days after the date appearing on the notice of proposed substitution. The notice to the investing authority and to the trustee shall be given in writing and delivered electronically. The trustee may assume in any case that the notice has been delivered to the investing authority. In order for objections of the investing authority to be effective, receipt of the objections must be acknowledged in writing by the trustee.

(3) The investing authority gives written authorization for a substitution or exchange of specific securities.

(H) The public depository shall notify any investing authority of any substitution or exchange under division (G)(1) or (2) of this section.

(I) Any federal reserve bank or branch thereof located in this state or federal home loan bank, without compliance with Chapter 1111. of the Revised Code and without becoming subject to any other law of this state relative to the exercise by corporations of trust powers generally, is qualified to act as trustee for the safekeeping of securities, under this section. Any institution mentioned in section 135.03 or 135.32 of the Revised Code that holds a certificate of qualification issued by the superintendent of financial institutions or any institution complying with sections 1111.04, 1111.05, and 1111.06 of the Revised Code is qualified to act as trustee for the safekeeping of securities under this section, other than those belonging to itself or to an affiliate as defined in section 1101.01 of the Revised Code.

Notwithstanding the fact that a public depository is required to pledge eligible securities in certain amounts to secure deposits of public moneys, a trustee has no duty or obligation to determine the eligibility, market value, or face value of any securities deposited with the trustee by a public depository. This applies in all situations including, without limitation, a substitution or exchange of securities.

Any charges or compensation of a designated trustee for acting as such under this section shall be paid by the public depository and in no event shall be chargeable to the investing authority or to any officer of the investing authority. The charges or compensation shall not be a lien or charge upon the securities deposited for safekeeping prior or superior to the rights to and interests in the securities of the investing authority. The treasurer and the treasurer's bonders or surety shall be relieved from any liability to the investing authority or to the public depository for the loss or destruction of any securities deposited with a qualified trustee pursuant to this section.

**Sec. 135.731.**

**Sec. 135.74.** (A) The treasurer of state may accept or reject an agricultural linked deposit loan package or any portion thereof, based on the treasurer's evaluation of the eligible agricultural businesses included in the package, the amount of individual loans in the package, and the amount of the package. In evaluating the eligible agricultural businesses, the treasurer of state shall give priority to a business's financial need for the loan to meet planting deadlines but shall also consider the overall financial need of the business and the economic needs of the area where the business is located.

(B) Upon acceptance of the agricultural linked deposit loan package or any portion thereof,

the treasurer of state may place certificates of deposit with the eligible lending institution at a rate below current market rates, as determined and calculated by the treasurer of state, or may invest in bonds, notes, debentures, or other obligations or securities issued by the federal farm credit bank with respect to the eligible lending institution at a rate below current market rates, as determined and calculated by the treasurer of state. When necessary, the treasurer may place certificates of deposit or may invest in such obligations or securities prior to acceptance of an agricultural linked deposit loan package.

(C) The eligible lending institution shall enter into an agricultural linked deposit agreement with the treasurer of state, which shall include requirements necessary to carry out the purposes of sections 135.71 to 135.76 of the Revised Code. The requirements shall at least do the following:

(1) Include an agreement by the eligible lending institution to lend to eligible agricultural businesses at a rate equal to either of the following:

(a) A rate not more than three hundred basis points below the present borrowing rate applicable to each specific agricultural business in the accepted loan package;

(b) The present borrowing rate applicable to each specific agricultural business in the accepted loan package minus the difference between one of the following, as applicable:

(i) The market rate and the actual rate at which the certificates of deposit that constitute the agricultural linked deposit were placed;

(ii) The market rate and the actual rate at which the investments in bonds, notes, debentures, or other obligations or securities that constitute the agricultural linked deposit were made.

(2) Reflect the market conditions prevailing in the eligible lending institution's lending area.

The agricultural linked deposit agreement may include a specification of the period of time in which the lending institution is to lend funds upon the placement of a linked deposit, and shall include provisions for the certificates of deposit to be placed or the investment in bonds, notes, debentures, obligations, or securities to be made for any maturity considered appropriate by the treasurer of state not to exceed five years. Interest shall be paid at the times determined by the treasurer of state.

(D) Eligible lending institutions shall comply fully with Chapter 135. of the Revised Code.

**Sec. 140.01.** As used in this chapter:

(A) "Hospital agency" means any public hospital agency or any nonprofit hospital agency.

(B) "Public hospital agency" means any county, board of county hospital trustees established pursuant to section 339.02 of the Revised Code, county hospital commission established pursuant to section 339.14 of the Revised Code, municipal corporation, new community authority organized under Chapter 349. of the Revised Code, joint township hospital district, state or municipal university or college operating or authorized to operate a hospital facility, or the state.

(C) "Nonprofit hospital agency" means a corporation or association not for profit, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, that has authority to own or operate a hospital facility or provides or is to provide services to one or more other hospital agencies.

(D) "Governing body" means, in the case of a county, the board of county commissioners or other legislative body; in the case of a board of county hospital trustees, the board; in the case of a county hospital commission, the commission; in the case of a municipal corporation, the council or



other legislative authority; in the case of a new community authority, its board of trustees; in the case of a joint township hospital district, the joint township district hospital board; in the case of a state or municipal university or college, its board of trustees or board of directors; in the case of a nonprofit hospital agency, the board of trustees or other body having general management of the agency; and, in the case of the state, the director of development services or the Ohio higher educational facility commission.

(E) "Hospital facilities" means buildings, structures and other improvements, additions thereto and extensions thereof, furnishings, equipment, and real estate and interests in real estate, used or to be used for or in connection with one or more hospitals, emergency, intensive, intermediate, extended, long-term, or self-care facilities, diagnostic and treatment and out-patient facilities, facilities related to programs for home health services, clinics, laboratories, public health centers, research facilities, and rehabilitation facilities, for or pertaining to diagnosis, treatment, care, or rehabilitation of sick, ill, injured, infirm, impaired, disabled, or handicapped persons, or the prevention, detection, and control of disease, and also includes education, training, and food service facilities for health professions personnel, housing facilities for such personnel and their families, and parking and service facilities in connection with any of the foregoing; and includes any one, part of, or any combination of the foregoing; and further includes site improvements, utilities, machinery, facilities, furnishings, and any separate or connected buildings, structures, improvements, sites, utilities, facilities, or equipment to be used in, or in connection with the operation or maintenance of, or supplementing or otherwise related to the services or facilities to be provided by, any one or more of such hospital facilities.

(F) "Costs of hospital facilities" means the costs of acquiring hospital facilities or interests in hospital facilities, including membership interests in nonprofit hospital agencies, costs of constructing hospital facilities, costs of improving one or more hospital facilities, including reconstructing, rehabilitating, remodeling, renovating, and enlarging, costs of equipping and furnishing such facilities, and all financing costs pertaining thereto, including, without limitation thereto, costs of engineering, architectural, and other professional services, designs, plans, specifications and surveys, and estimates of cost, costs of tests and inspections, the costs of any indemnity or surety bonds and premiums on insurance, all related direct or allocable administrative expenses pertaining thereto, fees and expenses of trustees, depositories, and paying agents for the obligations, cost of issuance of the obligations and financing charges and fees and expenses of financial advisors, attorneys, accountants, consultants and rating services in connection therewith, capitalized interest on the obligations, amounts necessary to establish reserves as required by the bond proceedings, the reimbursement of all moneys advanced or applied by the hospital agency or others or borrowed from others for the payment of any item or items of costs of such facilities, and all other expenses necessary or incident to planning or determining feasibility or practicability with respect to such facilities, and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, rehabilitation, remodeling, renovation, enlargement, improvement, equipment, and furnishing of such facilities, the financing thereof, and the placing of the same in use and operation, including any one, part of, or combination of such classes of costs and expenses, and means the costs of refinancing obligations issued by, or reimbursement of money advanced by, nonprofit hospital agencies or others the proceeds of which were used for the payment of costs of

hospital facilities, if the governing body of the public hospital agency determines that the refinancing or reimbursement advances the purposes of this chapter, whether or not the refinancing or reimbursement is in conjunction with the acquisition or construction of additional hospital facilities.

(G) "Hospital receipts" means all moneys received by or on behalf of a hospital agency from or in connection with the ownership, operation, acquisition, construction, improvement, equipping, or financing of any hospital facilities, including, without limitation thereto, any rentals and other moneys received from the lease, sale, or other disposition of hospital facilities, and any gifts, grants, interest subsidies, or other moneys received under any federal program for assistance in financing the costs of hospital facilities, and any other gifts, grants, and donations, and receipts therefrom, available for financing the costs of hospital facilities.

(H) "Obligations" means bonds, notes, or other evidences of indebtedness or obligation, including interest coupons pertaining thereto, issued or issuable by a public hospital agency to pay costs of hospital facilities.

(I) "Bond service charges" means principal, interest, and call premium, if any, required to be paid on obligations.

(J) "Bond proceedings" means one or more ordinances, resolutions, trust agreements, indentures, and other agreements or documents, and amendments and supplements to the foregoing, or any combination thereof, authorizing or providing for the terms, including any variable interest rates, and conditions applicable to, or providing for the security of, obligations and the provisions contained in such obligations.

(K) "Nursing home" has the same meaning as in division (A)(1) of section 5701.13 of the Revised Code.

(L) "Residential care facility" has the same meaning as in division (A)(2) of section 5701.13 of the Revised Code.

(M) "Independent living facility" means any self-care facility or other housing facility designed or used as a residence for elderly persons. An "independent living facility" does not include a residential facility, or that part of a residential facility, that is any of the following:

- (1) A hospital required to be certified by section 3727.02 of the Revised Code;
- (2) A nursing home or residential care facility;
- (3) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code and used for the program's hospice patients;
- (4) A residential facility licensed by the department of mental health and addiction services under section 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults;
- (5) A residential facility licensed by the department of mental health and addiction services under section 5119.34 of the Revised Code that is not a residential facility described in division (M)(4) of this section;
- (6) A facility licensed to provide methadone treatment under section 5119.391 of the Revised Code;
- (7) A community addiction services provider, as defined in section 5119.01 of the Revised Code;
- (8) A residential facility licensed under section 5123.19 of the Revised Code or a facility

providing services under a contract with the department of developmental disabilities under section 5123.18 of the Revised Code;

(9) A residential facility used as part of a hospital to provide housing for staff of the hospital or students pursuing a course of study at the hospital.

**Sec. 141.04.** (A) The annual salaries of the chief justice of the supreme court and of the justices and judges named in this section payable from the state treasury are as follows:

(1) For the chief justice of the supreme court, the following amounts effective in the following years:

(a) Beginning January 1, 2014, one hundred fifty thousand eight hundred fifty dollars;

(b) Beginning ~~on the effective date of this amendment~~ September 29, 2015, one hundred fifty-eight thousand four hundred dollars;

(c) Beginning January 1, 2017, one hundred sixty-six thousand three hundred fifty dollars;

(d) Beginning January 1, 2018, one hundred seventy-four thousand seven hundred dollars;

(e) Beginning January 1, 2019, and each calendar year thereafter, one hundred eighty-three thousand four hundred fifty dollars.

(2) For the justices of the supreme court, the following amounts effective in the following years:

(a) Beginning January 1, 2014, one hundred forty-one thousand six hundred dollars;

(b) Beginning ~~on the effective date of this amendment~~ September 29, 2015, one hundred forty-eight thousand seven hundred dollars;

(c) Beginning January 1, 2017, one hundred fifty-six thousand one hundred fifty dollars;

(d) Beginning January 1, 2018, one hundred sixty-four thousand dollars;

(e) Beginning January 1, 2019, and each calendar year thereafter, one hundred seventy-two thousand two hundred dollars.

(3) For the judges of the courts of appeals, the following amounts effective in the following years:

(a) Beginning January 1, 2014, one hundred thirty-two thousand dollars;

(b) Beginning ~~on the effective date of this amendment~~ September 29, 2015, one hundred thirty-eight thousand six hundred dollars;

(c) Beginning January 1, 2017, one hundred forty-five thousand five hundred fifty dollars;

(d) Beginning January 1, 2018, one hundred fifty-two thousand eight hundred fifty dollars;

(e) Beginning January 1, 2019, and each calendar year thereafter, one hundred sixty thousand five hundred dollars.

(4) For the judges of the courts of common pleas, the following amounts effective in the following years, reduced by an amount equal to the annual compensation paid to that judge from the county treasury pursuant to section 141.05 of the Revised Code:

(a) Beginning January 1, 2014, one hundred twenty-one thousand three hundred fifty dollars;

(b) Beginning ~~on the effective date of this amendment~~ September 29, 2015, one hundred twenty-seven thousand four hundred fifty dollars;

(c) Beginning January 1, 2017, one hundred thirty-three thousand eight hundred fifty dollars;

(d) Beginning January 1, 2018, one hundred forty thousand five hundred fifty dollars;

(e) Beginning January 1, 2019, and each calendar year thereafter, one hundred forty-seven

thousand six hundred dollars.

(5) For the full-time judges of a municipal court or the part-time judges of a municipal court of a territory having a population of more than fifty thousand, the following amounts effective in the following years, reduced by an amount equal to the annual compensation paid to that judge pursuant to division (B)(1)(a) of section 1901.11 of the Revised Code from municipal corporations and counties:

- (a) Beginning January 1, 2014, one hundred fourteen thousand one hundred dollars;
- (b) ~~Beginning on the effective date of this amendment~~ September 29, 2015, one hundred nineteen thousand eight hundred fifty dollars;
- (c) Beginning January 1, 2017, one hundred twenty-five thousand eight hundred fifty dollars;
- (d) Beginning January 1, 2018, one hundred thirty-two thousand one hundred fifty dollars;
- (e) Beginning January 1, 2019, and each calendar year thereafter, one hundred thirty-eight thousand eight hundred dollars.

(6) For judges of a municipal court designated as part-time judges by section 1901.08 of the Revised Code, other than part-time judges to whom division (A)(5) of this section applies, and for judges of a county court, the following amounts effective in the following years, reduced by an amount equal to the annual compensation paid to that judge pursuant to division (A) of section 1901.11 of the Revised Code from municipal corporations and counties or pursuant to division (A) of section 1907.16 of the Revised Code from counties:

- (a) Beginning January 1, 2014, sixty-five thousand six hundred fifty dollars;
- (b) ~~Beginning on the effective date of this amendment~~ September 29, 2015, sixty-eight thousand nine hundred fifty dollars;
- (c) Beginning January 1, 2017, seventy-two thousand four hundred dollars;
- (d) Beginning January 1, 2018, seventy-six thousand fifty dollars;
- (e) Beginning January 1, 2019, and each calendar year thereafter, seventy-nine thousand nine hundred dollars.

(B) Except as provided in sections 1901.122 and 1901.123 of the Revised Code, except as otherwise provided in this division, and except for the compensation to which the judges described in division (A)(5) of this section are entitled pursuant to divisions (B)(1)(a) and (2) of section 1901.11 of the Revised Code, the annual salary of the chief justice of the supreme court and of each justice or judge listed in division (A) of this section shall be paid in equal monthly installments from the state treasury. If the chief justice of the supreme court or any justice or judge listed in division (A)(2), (3), or (4) of this section delivers a written request to be paid biweekly to the administrative director of the supreme court prior to the first day of January of any year, the annual salary of the chief justice or the justice or judge that is listed in division (A)(2), (3), or (4) of this section shall be paid, during the year immediately following the year in which the request is delivered to the administrative director of the supreme court, biweekly from the state treasury.

(C) Upon the death of the chief justice or a justice of the supreme court during that person's term of office, an amount shall be paid in accordance with section 2113.04 of the Revised Code, or to that person's estate. The amount shall equal the amount of the salary that the chief justice or justice would have received during the remainder of the unexpired term or an amount equal to the salary of office for two years, whichever is less.

(D) Neither the chief justice of the supreme court nor any justice or judge of the supreme court, the court of appeals, the court of common pleas, or the probate court shall hold any other office of trust or profit under the authority of this state or the United States.

(E) In addition to the salaries payable pursuant to this section, the chief justice of the supreme court and the justices of the supreme court shall be entitled to a vehicle allowance of five hundred dollars per month, payable from the state treasury. The allowance shall be increased on the first day of January of each odd-numbered year by an amount equal to the percentage increase, if any, in the consumer price index for the immediately preceding twenty-four month period for which information is available.

(F) On or before the first day of December of each year, the Ohio supreme court, through its chief administrator, shall notify the administrative judge of the Montgomery county municipal court, the board of county commissioners of Montgomery county, and the treasurer of the state of the yearly salary cost of five part-time county court judges as of that date. If the total yearly salary costs of all of the judges of the Montgomery county municipal court as of the first day of December of that same year exceeds that amount, the administrative judge of the Montgomery county municipal court shall cause payment of the excess between those two amounts less any reduced amount paid for the health care costs of the Montgomery county municipal court judges in comparison to the health care costs of five part-time county court judges from the general special projects fund or the fund for a specific special project created pursuant to section 1901.26 of the Revised Code to the treasurer of Montgomery county and to the treasurer of the state in amounts proportional to the percentage of the salaries of the municipal court judges paid by the county and by the state.

(G) As used in this section:

(1) "Consumer price index" has the same meaning as in section 101.27 of the Revised Code.

(2) "Salary" does not include any portion of the cost, premium, or charge for health, medical, hospital, dental, or surgical benefits, or any combination of those benefits, covering the chief justice of the supreme court or a justice or judge named in this section and paid on the chief justice's or the justice's or judge's behalf by a governmental entity.

**Sec. 145.114.** (A) As used in this section and in section 145.116 of the Revised Code:

(1) "Agent" means a dealer, as defined in section 1707.01 of the Revised Code, who is licensed under sections 1707.01 to 1707.45 of the Revised Code or under comparable laws of another state or of the United States.

(2) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code.

(3) "Ohio-qualified agent" means an agent designated as such by the public employees retirement board.

(4) "Ohio-qualified investment manager" means an investment manager designated as such by the public employees retirement board.

(5) "Principal place of business" means an office in which the agent regularly provides securities or investment advisory services and solicits, meets with, or otherwise communicates with clients.

(B) The public employees retirement board shall, for the purposes of this section, designate an agent as an Ohio-qualified agent if the agent meets all of the following requirements:

(1) The agent is subject to taxation under Chapter 5725., 5726., 5733., 5747., or 5751. of the Revised Code;

(2) The agent is authorized to conduct business in this state;

(3) The agent maintains a principal place of business in this state and employs at least five residents of this state.

(C) The public employees retirement board shall adopt and implement a written policy to establish criteria and procedures used to select agents to execute securities transactions on behalf of the retirement system. The policy shall address each of the following:

(1) Commissions charged by the agent, both in the aggregate and on a per share basis;

(2) The execution speed and trade settlement capabilities of the agent;

(3) The responsiveness, reliability, and integrity of the agent;

(4) The nature and value of research provided by the agent;

(5) Any special capabilities of the agent.

(D)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified agents for the execution of domestic equity and fixed income trades on behalf of the retirement system, when an Ohio-qualified agent offers quality, services, and safety comparable to other agents otherwise available to the board and meets the criteria established under division (C) of this section.

(2) The board shall review, at least annually, the performance of the agents that execute securities transactions on behalf of the board.

(3) The board shall determine whether an agent is an Ohio-qualified agent, meets the criteria established by the board pursuant to division (C) of this section, and offers quality, services, and safety comparable to other agents otherwise available to the board. The board's determination shall be final.

**Sec. 145.116.** (A) The public employees retirement board shall, for the purposes of this section, designate an investment manager as an Ohio-qualified investment manager if the investment manager meets all of the following requirements:

(1) The investment manager is subject to taxation under Chapter 5725., 5726., 5733., 5747., or 5751. of the Revised Code;

(2) The investment manager meets one of the following requirements:

(a) Has its corporate headquarters or principal place of business in this state;

(b) Employs at least five hundred individuals in this state;

(c) Has a principal place of business in this state and employs at least twenty residents of this state.

(B)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified investment managers, when an Ohio-qualified investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The policy shall also provide for the following:

(a) A process whereby the board can develop a list of Ohio-qualified investment managers and their investment products;

(b) A process whereby the board can give public notice to Ohio-qualified investment managers of the board's search for an investment manager that includes the board's search criteria.

(2) The board shall determine whether an investment manager is an Ohio-qualified investment manager and whether the investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The board's determination shall be final.

**Sec. 145.56.** The right of an individual to a pension, an annuity, or a retirement allowance itself, the right of an individual to any optional benefit, any other right accrued or accruing to any individual, under this chapter, or under any municipal retirement system established subject to this chapter under the laws of this state or any charter, the various funds created by this chapter, or under such municipal retirement system, and all moneys, investments, and income from moneys or investments are exempt from any state tax, except the tax imposed by section 5747.02 of the Revised Code, and are exempt from any county, municipal, or other local tax, except income taxes imposed pursuant to section 5748.02, 5748.08, or 5748.09 of the Revised Code, and, except as provided in sections 145.57, 145.572, 145.573, 145.574, 3105.171, 3105.65, and 3115.501 and Chapters 3119., 3121., 3123., and 3125. of the Revised Code, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, and shall be unassignable except as specifically provided in this chapter and sections 3105.171, 3105.65, and 3115.501 and Chapters 3119., 3121., 3123., and 3125. of the Revised Code.

**Sec. 145.571.** (A) As used in this section, "alternate payee," "benefit," "lump sum payment," "participant," and "public retirement program" have the same meanings as in section 3105.80 of the Revised Code.

(B) On receipt of an order issued under section 3105.171 or 3105.65 of the Revised Code, the public employees retirement system shall determine whether the order meets the requirements of sections 3105.80 to 3105.90 of the Revised Code. The system shall retain in the participant's record an order the system determines meets the requirements. Not later than sixty days after receipt, the system shall return to the court that issued the order any order the system determines does not meet the requirements.

(C) The system shall comply with an order retained under division (B) of this section at the following times as appropriate:

(1) If the participant has applied for or is receiving a benefit or has applied for but not yet received a lump sum payment, as soon as practicable;

(2) If the participant has not applied for a benefit or lump sum payment, on application by the participant for a benefit or lump sum payment.

(D) If the system transfers a participant's service credit or contributions made by or on behalf of a participant to a public retirement program that is not named in the order, the system shall do both of the following:

(1) Notify the court that issued the order by sending the court a copy of the order and the name and address of the public retirement program to which the transfer was made;

(2) Send a copy of the order to the public retirement program to which the transfer was made.

(E) If it receives a participant's service credit or contributions and a copy of an order as provided in division (D) of this section, the system shall administer the order as if it were the public retirement program named in the order.

(F) If a participant's benefit or lump sum payment is or will be subject to more than one order

described in section 3105.81 of the Revised Code or to an order described in section 3105.81 of the Revised Code and a withholding order under section 3111.23 or 3113.21 of the Revised Code, the system shall, after determining that the amounts that are or will be withheld will cause the benefit or lump sum payment to fall below the limits described in section 3105.85 of the Revised Code, do all of the following:

(1) Establish, in accordance with division (G) of this section and subject to the limits described in section 3105.85 of the Revised Code, the priority in which the orders are or will be paid by the system;

(2) Reduce the amount paid to an alternate payee based on the priority established under division (F)(1) of this section;

(3) Notify, by regular mail, a participant and alternate payee of any action taken under this division.

(G) A withholding or deduction notice issued under section 3111.23 or 3113.21 of the Revised Code or an order described in section 3115.501 of the Revised Code has priority over all other orders and shall be complied with in accordance with child support enforcement laws. All other orders are entitled to priority in order of earliest retention by the system. The system is not to retain an order that provides for the division of property unless the order is filed in a court with jurisdiction in this state.

(H) The system is not liable in civil damages for loss resulting from any action or failure to act in compliance with this section.

**Sec. 149.04.** Messages of the governor, and the inaugural address of the governor-elect, shall be produced and distributed in electronic form to the governor, to each member of the general assembly, and to the state library. A physical copy of the message or address shall be provided, upon request, to any recipient named in this section.

**Sec. 149.43.** (A) As used in this section:

(1) "Public record" means records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in this state kept by the nonprofit or for-profit entity operating the alternative school pursuant to section 3313.533 of the Revised Code. "Public record" does not mean any of the following:

(a) Medical records;

(b) Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions;

(c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections;

(d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under sections 3705.12 to 3705.124 of the Revised Code;

(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;

(f) Records specified in division (A) of section 3107.52 of the Revised Code;



- (g) Trial preparation records;
- (h) Confidential law enforcement investigatory records;
- (i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;
- (j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;
- (k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;
- (l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;
- (m) Intellectual property records;
- (n) Donor profile records;
- (o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;
- (p) Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, investigator of the bureau of criminal identification and investigation, or federal law enforcement officer residential and familial information;
- (q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;
- (r) Information pertaining to the recreational activities of a person under the age of eighteen;
- (s) In the case of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code or a review conducted pursuant to guidelines established by the director of health under section 3701.70 of the Revised Code, records provided to the board or director, statements made by board members during meetings of the board or by persons participating in the director's review, and all work products of the board or director, and in the case of a child fatality review board, child fatality review data submitted by the board to the department of health or a national child death review database, other than the report prepared pursuant to division (A) of section 307.626 of the Revised Code;
- (t) Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 of the Revised Code other than the information released under that section;
- (u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of executives of long-term services and supports administers under section 4751.04 of the Revised Code or contracts under that section with a private or government entity to administer;
- (v) Records the release of which is prohibited by state or federal law;
- (w) Proprietary information of or relating to any person that is submitted to or compiled by the Ohio venture capital authority created under section 150.01 of the Revised Code;

(x) Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance from the agency;

(y) Records listed in section 5101.29 of the Revised Code;

(z) Discharges recorded with a county recorder under section 317.24 of the Revised Code, as specified in division (B)(2) of that section;

(aa) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility;

(bb) Records described in division (C) of section 187.04 of the Revised Code that are not designated to be made available to the public as provided in that division;

(cc) Information and records that are made confidential, privileged, and not subject to disclosure under divisions (B) and (C) of section 2949.221 of the Revised Code;

(dd) Personal information, as defined in section 149.45 of the Revised Code;

(ee) The confidential name, address, and other personally identifiable information of a program participant in the address confidentiality program established under sections 111.41 to 111.47 of the Revised Code, including the contents of any application for absent voter's ballots, absent voter's ballot identification envelope statement of voter, or provisional ballot affirmation completed by a program participant who has a confidential voter registration record, and records or portions of records pertaining to that program that identify the number of program participants that reside within a precinct, ward, township, municipal corporation, county, or any other geographic area smaller than the state. As used in this division, "confidential address" and "program participant" have the meaning defined in section 111.41 of the Revised Code.

(ff) Orders for active military service of an individual serving or with previous service in the armed forces of the United States, including a reserve component, or the Ohio organized militia, except that, such order becomes a public record on the day that is fifteen years after the published date or effective date of the call to order.

(2) "Confidential law enforcement investigatory record" means any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following:

(a) The identity of a suspect who has not been charged with the offense to which the record pertains, or of an information source or witness to whom confidentiality has been reasonably promised;

(b) Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity;

(c) Specific confidential investigatory techniques or procedures or specific investigatory work product;

(d) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.

(3) "Medical record" means any document or combination of documents, except births,

deaths, and the fact of admission to or discharge from a hospital, that pertains to the medical history, diagnosis, prognosis, or medical condition of a patient and that is generated and maintained in the process of medical treatment.

(4) "Trial preparation record" means any record that contains information that is specifically compiled in reasonable anticipation of, or in defense of, a civil or criminal action or proceeding, including the independent thought processes and personal trial preparation of an attorney.

(5) "Intellectual property record" means a record, other than a financial or administrative record, that is produced or collected by or for faculty or staff of a state institution of higher learning in the conduct of or as a result of study or research on an educational, commercial, scientific, artistic, technical, or scholarly issue, regardless of whether the study or research was sponsored by the institution alone or in conjunction with a governmental body or private concern, and that has not been publicly released, published, or patented.

(6) "Donor profile record" means all records about donors or potential donors to a public institution of higher education except the names and reported addresses of the actual donors and the date, amount, and conditions of the actual donation.

(7) "Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, investigator of the bureau of criminal identification and investigation, or federal law enforcement officer residential and familial information" means any information that discloses any of the following about a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, investigator of the bureau of criminal identification and investigation, or federal law enforcement officer:

(a) The address of the actual personal residence of a peace officer, parole officer, probation officer, bailiff, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, an investigator of the bureau of criminal identification and investigation, or federal law enforcement officer, except for the state or political subdivision in which the peace officer, parole officer, probation officer, bailiff, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, investigator of the bureau of criminal identification and investigation, or federal law enforcement officer resides;

(b) Information compiled from referral to or participation in an employee assistance program;

(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, investigator of the bureau of criminal identification and investigation, or federal law enforcement officer;

(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, investigator of the bureau of criminal

identification and investigation, or federal law enforcement officer by the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, investigator of the bureau of criminal identification and investigation's, or federal law enforcement officer's employer;

(e) The identity and amount of any charitable or employment benefit deduction made by the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, investigator of the bureau of criminal identification and investigation's, or federal law enforcement officer's employer from the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, investigator of the bureau of criminal identification and investigation's, or federal law enforcement officer's compensation unless the amount of the deduction is required by state or federal law;

(f) The name, the residential address, the name of the employer, the address of the employer, the social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, investigator of the bureau of criminal identification and investigation, or federal law enforcement officer;

(g) A photograph of a peace officer who holds a position or has an assignment that may include undercover or plain clothes positions or assignments as determined by the peace officer's appointing authority.

As used in divisions (A)(7) and (B)(9) of this section, "peace officer" has the same meaning as in section 109.71 of the Revised Code and also includes the superintendent and troopers of the state highway patrol; it does not include the sheriff of a county or a supervisory employee who, in the absence of the sheriff, is authorized to stand in for, exercise the authority of, and perform the duties of the sheriff.

As used in divisions (A)(7) and (B)(9) of this section, "correctional employee" means any employee of the department of rehabilitation and correction who in the course of performing the employee's job duties has or has had contact with inmates and persons under supervision.

As used in divisions (A)(7) and (B)(9) of this section, "youth services employee" means any employee of the department of youth services who in the course of performing the employee's job duties has or has had contact with children committed to the custody of the department of youth services.

As used in divisions (A)(7) and (B)(9) of this section, "firefighter" means any regular, paid or volunteer, member of a lawfully constituted fire department of a municipal corporation, township, fire district, or village.

As used in divisions (A)(7) and (B)(9) of this section, "EMT" means EMTs-basic, EMTs-I, and paramedics that provide emergency medical services for a public emergency medical service

organization. "Emergency medical service organization," "EMT-basic," "EMT-I," and "paramedic" have the same meanings as in section 4765.01 of the Revised Code.

As used in divisions (A)(7) and (B)(9) of this section, "investigator of the bureau of criminal identification and investigation" has the meaning defined in section 2903.11 of the Revised Code.

As used in divisions (A)(7) and (B)(9) of this section, "federal law enforcement officer" has the meaning defined in section 9.88 of the Revised Code.

(8) "Information pertaining to the recreational activities of a person under the age of eighteen" means information that is kept in the ordinary course of business by a public office, that pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following:

(a) The address or telephone number of a person under the age of eighteen or the address or telephone number of that person's parent, guardian, custodian, or emergency contact person;

(b) The social security number, birth date, or photographic image of a person under the age of eighteen;

(c) Any medical record, history, or information pertaining to a person under the age of eighteen;

(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office.

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

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

(11) "Redaction" means obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a "record" in section 149.011 of the Revised Code.

(12) "Designee" and "elected official" have the same meanings as in section 109.43 of the Revised Code.

(B)(1) Upon request and subject to division (B)(8) of this section, all public records responsive to the request shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to division (B)(8) of this section, upon request, a public office or person responsible for public records shall make copies of the requested public record available at cost and within a reasonable period of time. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the public office or the person responsible for the public record shall make available all of the information within the public record that is not exempt. When making that public record available for public inspection or copying that public record, the public office or the person responsible for the public record shall notify the requester of any redaction or make the redaction plainly visible. A redaction shall be deemed a denial of a request to inspect or copy the redacted information, except if federal or state law authorizes or requires a public office to make the redaction.

(2) To facilitate broader access to public records, a public office or the person responsible for

public records shall organize and maintain public records in a manner that they can be made available for inspection or copying in accordance with division (B) of this section. A public office also shall have available a copy of its current records retention schedule at a location readily available to the public. If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records under this section such that the public office or the person responsible for the requested public record cannot reasonably identify what public records are being requested, the public office or the person responsible for the requested public record may deny the request but shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by the public office and accessed in the ordinary course of the public office's or person's duties.

(3) If a request is ultimately denied, in part or in whole, the public office or the person responsible for the requested public record shall provide the requester with an explanation, including legal authority, setting forth why the request was denied. If the initial request was provided in writing, the explanation also shall be provided to the requester in writing. The explanation shall not preclude the public office or the person responsible for the requested public record from relying upon additional reasons or legal authority in defending an action commenced under division (C) of this section.

(4) Unless specifically required or authorized by state or federal law or in accordance with division (B) of this section, no public office or person responsible for public records may limit or condition the availability of public records by requiring disclosure of the requester's identity or the intended use of the requested public record. Any requirement that the requester disclose the requester's identity or the intended use of the requested public record constitutes a denial of the request.

(5) A public office or person responsible for public records may ask a requester to make the request in writing, may ask for the requester's identity, and may inquire about the intended use of the information requested, but may do so only after disclosing to the requester that a written request is not mandatory and that the requester may decline to reveal the requester's identity or the intended use and when a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability of the public office or person responsible for public records to identify, locate, or deliver the public records sought by the requester.

(6) If any person chooses to obtain a copy of a public record in accordance with division (B) of this section, the public office or person responsible for the public record may require that person to pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the person seeking the copy under this division. The public office or the person responsible for the public record shall permit that person to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the person seeking the copy makes a choice under this division, the public office or person responsible for the public record shall provide a copy of it in accordance with the choice made by the person seeking the copy. Nothing in this section requires a public office or person responsible for the public

record to allow the person seeking a copy of the public record to make the copies of the public record.

(7)(a) Upon a request made in accordance with division (B) of this section and subject to division (B)(6) of this section, a public office or person responsible for public records shall transmit a copy of a public record to any person by United States mail or by any other means of delivery or transmission within a reasonable period of time after receiving the request for the copy. The public office or person responsible for the public record may require the person making the request to pay in advance the cost of postage if the copy is transmitted by United States mail or the cost of delivery if the copy is transmitted other than by United States mail, and to pay in advance the costs incurred for other supplies used in the mailing, delivery, or transmission.

(b) Any public office may adopt a policy and procedures that it will follow in transmitting, within a reasonable period of time after receiving a request, copies of public records by United States mail or by any other means of delivery or transmission pursuant to division (B)(7) of this section. A public office that adopts a policy and procedures under division (B)(7) of this section shall comply with them in performing its duties under that division.

(c) In any policy and procedures adopted under division (B)(7) of this section:

(i) A public office may limit the number of records requested by a person that the office will physically deliver by United States mail or by another delivery service to ten per month, unless the person certifies to the office in writing that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes;

(ii) A public office that chooses to provide some or all of its public records on a web site that is fully accessible to and searchable by members of the public at all times, other than during acts of God outside the public office's control or maintenance, and that charges no fee to search, access, download, or otherwise receive records provided on the web site, may limit to ten per month the number of records requested by a person that the office will deliver in a digital format, unless the requested records are not provided on the web site and unless the person certifies to the office in writing that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes.

(iii) For purposes of division (B)(7) of this section, "commercial" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

(8) A public office or person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation or prosecution were an adult, unless the request to inspect or to obtain a copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or made the adjudication with respect to the person, or the judge's successor in office, finds that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person.

(9)(a) Upon written request made and signed by a journalist on or after December 16, 1999, a

public office, or person responsible for public records, having custody of the records of the agency employing a specified peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, investigator of the bureau of criminal identification and investigation, or federal law enforcement officer shall disclose to the journalist the address of the actual personal residence of the peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, investigator of the bureau of criminal identification and investigation, or federal law enforcement officer and, if the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, investigator of the bureau of criminal identification and investigation's, or federal law enforcement officer's spouse, former spouse, or child is employed by a public office, the name and address of the employer of the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, investigator of the bureau of criminal identification and investigation's, or federal law enforcement officer's spouse, former spouse, or child. The request shall include the journalist's name and title and the name and address of the journalist's employer and shall state that disclosure of the information sought would be in the public interest.

(b) Division (B)(9)(a) of this section also applies to journalist requests for customer information maintained by a municipally owned or operated public utility, other than social security numbers and any private financial information such as credit reports, payment methods, credit card numbers, and bank account information.

(c) As used in division (B)(9) of this section, "journalist" means a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public.

(C)(1) If a person allegedly is aggrieved by the failure of a public office or the person responsible for public records to promptly prepare a public record and to make it available to the person for inspection in accordance with division (B) of this section or by any other failure of a public office or the person responsible for public records to comply with an obligation in accordance with division (B) of this section, the person allegedly aggrieved may do only one of the following, and not both:

(a) File a complaint with the clerk of the court of claims or the clerk of the court of common pleas under section 2743.75 of the Revised Code;

(b) Commence a mandamus action to obtain a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section, that awards court costs and reasonable attorney's fees to the person that instituted the mandamus action, and, if applicable, that includes an order fixing statutory damages under division (C)(2) of this section. The mandamus action may be commenced in the court of common pleas of the county in which division



(B) of this section allegedly was not complied with, in the supreme court pursuant to its original jurisdiction under Section 2 of Article IV, Ohio Constitution, or in the court of appeals for the appellate district in which division (B) of this section allegedly was not complied with pursuant to its original jurisdiction under Section 3 of Article IV, Ohio Constitution.

(2) If a requester transmits a written request by hand delivery or certified mail to inspect or receive copies of any public record in a manner that fairly describes the public record or class of public records to the public office or person responsible for the requested public records, except as otherwise provided in this section, the requester shall be entitled to recover the amount of statutory damages set forth in this division if a court determines that the public office or the person responsible for public records failed to comply with an obligation in accordance with division (B) of this section.

The amount of statutory damages shall be fixed at one hundred dollars for each business day during which the public office or person responsible for the requested public records failed to comply with an obligation in accordance with division (B) of this section, beginning with the day on which the requester files a mandamus action to recover statutory damages, up to a maximum of one thousand dollars. The award of statutory damages shall not be construed as a penalty, but as compensation for injury arising from lost use of the requested information. The existence of this injury shall be conclusively presumed. The award of statutory damages shall be in addition to all other remedies authorized by this section.

The court may reduce an award of statutory damages or not award statutory damages if the court determines both of the following:

(a) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of this section and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;

(b) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(3) In a mandamus action filed under division (C)(1) of this section, the following apply:

(a)(i) If the court orders the public office or the person responsible for the public record to comply with division (B) of this section, the court shall determine and award to the relator all court costs, which shall be construed as remedial and not punitive.

(ii) If the court makes a determination described in division (C)(3)(b)(iii) of this section, the court shall determine and award to the relator all court costs, which shall be construed as remedial and not punitive.

(b) If the court renders a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section or if the court determines any of the following, the court may award reasonable attorney's fees to the relator, subject to the provisions of

division (C)(4) of this section:

(i) The public office or the person responsible for the public records failed to respond affirmatively or negatively to the public records request in accordance with the time allowed under division (B) of this section.

(ii) The public office or the person responsible for the public records promised to permit the relator to inspect or receive copies of the public records requested within a specified period of time but failed to fulfill that promise within that specified period of time.

(iii) The public office or the person responsible for the public records acted in bad faith when the office or person voluntarily made the public records available to the relator for the first time after the relator commenced the mandamus action, but before the court issued any order concluding whether or not the public office or person was required to comply with division (B) of this section. No discovery may be conducted on the issue of the alleged bad faith of the public office or person responsible for the public records. This division shall not be construed as creating a presumption that the public office or the person responsible for the public records acted in bad faith when the office or person voluntarily made the public records available to the relator for the first time after the relator commenced the mandamus action, but before the court issued any order described in this division.

(c) The court shall not award attorney's fees to the relator if the court determines both of the following:

(i) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of this section and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;

(ii) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(4) All of the following apply to any award of reasonable attorney's fees awarded under division (C)(3)(b) of this section:

(a) The fees shall be construed as remedial and not punitive.

(b) The fees awarded shall not exceed the total of the reasonable attorney's fees incurred before the public record was made available to the relator and the fees described in division (C)(4)(c) of this section.

(c) Reasonable attorney's fees shall include reasonable fees incurred to produce proof of the reasonableness and amount of the fees and to otherwise litigate entitlement to the fees.

(d) The court may reduce the amount of fees awarded if the court determines that, given the factual circumstances involved with the specific public records request, an alternative means should have been pursued to more effectively and efficiently resolve the dispute that was subject to the mandamus action filed under division (C)(1) of this section.

(5) If the court does not issue a writ of mandamus under division (C) of this section and the court determines at that time that the bringing of the mandamus action was frivolous conduct as defined in division (A) of section 2323.51 of the Revised Code, the court may award to the public office all court costs, expenses, and reasonable attorney's fees, as determined by the court.

(D) Chapter 1347. of the Revised Code does not limit the provisions of this section.

(E)(1) To ensure that all employees of public offices are appropriately educated about a public office's obligations under division (B) of this section, all elected officials or their appropriate designees shall attend training approved by the attorney general as provided in section 109.43 of the Revised Code. In addition, all public offices shall adopt a public records policy in compliance with this section for responding to public records requests. In adopting a public records policy under this division, a public office may obtain guidance from the model public records policy developed and provided to the public office by the attorney general under section 109.43 of the Revised Code. Except as otherwise provided in this section, the policy may not limit the number of public records that the public office will make available to a single person, may not limit the number of public records that it will make available during a fixed period of time, and may not establish a fixed period of time before it will respond to a request for inspection or copying of public records, unless that period is less than eight hours.

(2) The public office shall distribute the public records policy adopted by the public office under division (E)(1) of this section to the employee of the public office who is the records custodian or records manager or otherwise has custody of the records of that office. The public office shall require that employee to acknowledge receipt of the copy of the public records policy. The public office shall create a poster that describes its public records policy and shall post the poster in a conspicuous place in the public office and in all locations where the public office has branch offices. The public office may post its public records policy on the internet web site of the public office if the public office maintains an internet web site. A public office that has established a manual or handbook of its general policies and procedures for all employees of the public office shall include the public records policy of the public office in the manual or handbook.

(F)(1) The bureau of motor vehicles may adopt rules pursuant to Chapter 119. of the Revised Code to reasonably limit the number of bulk commercial special extraction requests made by a person for the same records or for updated records during a calendar year. The rules may include provisions for charges to be made for bulk commercial special extraction requests for the actual cost of the bureau, plus special extraction costs, plus ten per cent. The bureau may charge for expenses for redacting information, the release of which is prohibited by law.

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

(a) "Actual cost" means the cost of depleted supplies, records storage media costs, actual mailing and alternative delivery costs, or other transmitting costs, and any direct equipment operating and maintenance costs, including actual costs paid to private contractors for copying services.

(b) "Bulk commercial special extraction request" means a request for copies of a record for information in a format other than the format already available, or information that cannot be extracted without examination of all items in a records series, class of records, or database by a person who intends to use or forward the copies for surveys, marketing, solicitation, or resale for commercial purposes. "Bulk commercial special extraction request" does not include a request by a

person who gives assurance to the bureau that the person making the request does not intend to use or forward the requested copies for surveys, marketing, solicitation, or resale for commercial purposes.

(c) "Commercial" means profit-seeking production, buying, or selling of any good, service, or other product.

(d) "Special extraction costs" means the cost of the time spent by the lowest paid employee competent to perform the task, the actual amount paid to outside private contractors employed by the bureau, or the actual cost incurred to create computer programs to make the special extraction. "Special extraction costs" include any charges paid to a public agency for computer or records services.

(3) For purposes of divisions (F)(1) and (2) of this section, "surveys, marketing, solicitation, or resale for commercial purposes" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

(G) A request by a defendant, counsel of a defendant, or any agent of a defendant in a criminal action that public records related to that action be made available under this section shall be considered a demand for discovery pursuant to the Criminal Rules, except to the extent that the Criminal Rules plainly indicate a contrary intent. The defendant, counsel of the defendant, or agent of the defendant making a request under this division shall serve a copy of the request on the prosecuting attorney, director of law, or other chief legal officer responsible for prosecuting the action.

**Sec. 153.08.** On the day and at the place named in the notice provided for in section 153.06 of the Revised Code, the owner referred to in section 153.01 of the Revised Code shall open the bids and shall publicly, with the assistance of the architect or engineer, immediately proceed to tabulate the bids. For a bid filed electronically, the public bid opening may be broadcast by electronic means pursuant to rules established by the Ohio facilities construction commission. A bid shall be invalid and not considered unless a bid guaranty meeting the requirements of section 153.54 of the Revised Code and in the form approved by the commission is filed with such bid. For a bid that is not filed electronically, the bid and bid guaranty shall be filed in one sealed envelope. If the bid and bid guaranty are filed electronically, they must be received electronically before the deadline published pursuant to section 153.06 of the Revised Code. For all bids filed electronically, the original, unaltered bid guaranty shall be made available to the public authority after the public bid opening, which may be achieved by means of an electronic verification and security system established under rules adopted by the Ohio facilities construction commission under Chapter 119. of the Revised Code. After investigation, which shall be completed within thirty days, the contract shall be awarded by such owner to the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code.

No contract shall be entered into until the industrial commission has certified that the person so awarded the contract has complied with sections 4123.01 to 4123.94 of the Revised Code, until, if the bidder so awarded the contract is a foreign corporation, the secretary of state has certified that such corporation is authorized to do business in this state, until, if the bidder so awarded the contract is a person nonresident of this state, such person has filed with the secretary of state a power of attorney designating the secretary of state as its agent for the purpose of accepting service of

summons in any action brought under section 153.05 of the Revised Code or under sections 4123.01 to 4123.94 of the Revised Code, and until the contract and bond, if any, are submitted to the attorney general and the attorney general's approval certified thereon.

No contract shall be entered into unless the bidder possesses a valid certificate of compliance with affirmative action programs issued pursuant to section 9.47 of the Revised Code and dated no earlier than one hundred eighty days prior to the date fixed for the opening of bids for a particular project.

**Sec. 153.70.** (A) Except for any person providing professional design services of a research or training nature, any person rendering professional design services to a public authority or to a design-build firm, including a criteria architect or engineer and person performing architect or engineer of record services, shall have and maintain, or be covered by, during the period the services are rendered, a professional liability insurance policy or policies with a company or companies that are authorized to do business in this state and that afford professional liability coverage for the professional design services rendered. The insurance shall be in an amount considered sufficient by the public authority. At the public authority's discretion, the design-build firm shall carry contractor's professional liability insurance and any other insurance the public authority considers appropriate.

(B) The requirement for professional liability insurance set forth in division (A) of this section may be waived by the public authority for good cause, or the public authority may allow the person providing the professional design services to provide other assurances of financial responsibility.

(C) Before construction begins pursuant to a contract for design-build services with a design-build firm, the design-build firm shall provide a surety bond to the public authority in accordance with rules adopted by the executive director of the Ohio facilities construction commission under Chapter 119. of the Revised Code.

**Sec. 153.83.**

**Sec. 156.01.** As used in sections 156.01 to 156.05 of the Revised Code:

(A) "Avoided capital costs" means a measured reduction in the cost of future equipment or other capital purchases that results from implementation of one or more energy or water conservation measures, when compared to an established baseline for previous such cost.

(B) "Energy conservation measure" means an installation or modification of an installation in, or a remodeling of, an existing building in order to reduce energy consumption and operating costs. The term includes any of the following:

(1) Installation or modification of insulation in the building structure and systems within the building;

(2) Installation or modification of storm windows and doors, multiglazed windows and doors, and heat absorbing or heat reflective glazed and coated window and door systems; installation of additional glazing; reductions in glass area; and other window and door system modifications that reduce energy consumption and operating costs;

(3) Installation or modification of automatic energy control systems;

(4) Replacement or modification of heating, ventilating, or air conditioning systems;

(5) Application of caulking and weather stripping;

(6) Replacement or modification of lighting fixtures to increase the energy efficiency of the

lighting system without increasing the overall illumination of a building unless the increase in illumination is necessary to conform to the applicable state or local building code for the proposed lighting system;

(7) Installation or modification of energy recovery systems;

(8) Installation or modification of cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;

(9) Installation or modification of trigeneration systems that produce heat and cooling, as well as electricity, for use primarily within a building or complex of buildings;

(10) Installation or modification of systems that harvest renewable energy from solar, wind, water, biomass, bio-gas, or geothermal sources, for use primarily within a building or complex of buildings;

(11) Retro-commissioning or recommissioning energy-related systems to verify that they are installed and calibrated to optimize energy and operational performance within a building or complex of buildings;

(12) Consolidation, virtualization, and optimization of computer servers, data storage devices, or other information technology hardware and infrastructure;

(13) Any other modification, installation, or remodeling approved by the executive director of the Ohio facilities construction commission as an energy conservation measure for one or more buildings owned by either of the following:

(a) The state;

(b) A state institution of higher education as defined in section 3345.011 of the Revised Code that implements the energy conservation measure in consultation with the executive director.

(C) "Energy saving measure" means the acquisition and installation, by purchase, lease, lease-purchase, lease with an option to buy, or installment purchase, of an energy conservation measure and any attendant architectural and engineering consulting services.

(D) "Energy, water, or wastewater cost savings" means a measured reduction in, as applicable, the cost of fuel, energy or water consumption, wastewater production, or stipulated operation or maintenance resulting from the implementation of one or more energy or water conservation measures, when compared to an established baseline for previous such costs, respectively.

(E) "Operating cost savings" means a measured reduction in the cost of stipulated operation or maintenance created by the installation of new equipment or implementation of a new service, when compared with an established baseline for previous such stipulated costs.

(F) "Water conservation measure" means an installation or modification of an installation in, or a remodeling of, an existing building or the surrounding grounds in order to reduce water consumption. The term includes any of the following:

(1) Water-conserving fixture, appliance, or equipment, or the substitution of a nonwater-using fixture, appliance, or equipment;

(2) Water-conserving, landscape irrigation equipment;

(3) Landscaping measure that reduces storm water runoff demand and capture and hold applied water and rainfall, including landscape contouring such as the use of a berm, swale, or terrace

and including the use of a soil amendment, including compost, that increases the water-holding capacity of the soil;

(4) Rainwater harvesting equipment or equipment to make use of water collected as part of a storm water system installed for water quality control;

(5) Equipment for recycling or reuse of water originating on the premises or from another source, including treated, municipal effluent;

(6) Equipment needed to capture water for nonpotable uses from any nonconventional, alternate source, including air conditioning condensate or gray water;

(7) Any other modification, installation, or remodeling approved by the executive director of the Ohio facilities construction commission as a water conservation measure for one or more buildings or the surrounding grounds owned by either of the following:

(a) The state;

(b) A state institution of higher education as defined in section 3345.011 of the Revised Code that implements the water conservation measure in consultation with the executive director.

(G) "Water saving measure" means the acquisition and installation, by the purchase, lease, lease-purchase, lease with an option to buy, or installment purchases of a water conservation measure and any attendant architectural and engineering consulting services.

**Sec. 156.02.** The executive director of the Ohio facilities construction commission may, on the executive director's own initiative or at the request of a state agency, contract with an energy or a water services company, architect, professional engineer, contractor, or other person experienced in the design and implementation of energy or water conservation measures for a report containing an analysis and recommendations pertaining to the implementation of energy or water conservation measures that result in energy, water, or wastewater cost savings, operating cost savings, or avoided capital costs for the institution. The report shall include estimates of all costs of such installations, including the costs of design, engineering, installation, maintenance, repairs, and debt service, and estimates of the energy, water, or wastewater cost savings, operating cost savings, and avoided capital costs created.

**Sec. 156.04.** (A) In accordance with this section and section 156.03 of the Revised Code, the executive director of the Ohio facilities construction commission may, on the executive director's own initiative or at the request of a state agency, enter into an installment payment contract for the implementation of one or more energy or water saving measures. If the executive director wishes an installment payment contract to be exempted from Chapter 153. of the Revised Code, the executive director shall proceed pursuant to section 156.03 of the Revised Code.

(B) Any installment payment contract under this section shall provide that all payments, except payments for repairs and obligations on termination of the contract prior to its expiration, are to be a stated percentage of calculated energy, water, or wastewater cost savings, operating costs, and avoided capital costs attributable to the one or more measures over a defined period of time and are to be made only to the extent that those calculated amounts actually occur. No such contract shall contain either of the following:

(1) A requirement of any additional capital investment or contribution of funds, other than funds available from state or federal grants;

(2) In the case of a contract for a cogeneration system described in division (B)(8) of section

156.01 of the Revised Code, a payment term longer than twenty years, and, in the case of all other contracts, a payment term longer than fifteen years.

(C) Any installment payment contract entered into under this section shall terminate no later than the last day of the fiscal biennium for which funds have been appropriated by the general assembly and shall be renewed in each succeeding fiscal biennium in which any balance of the contract remains unpaid, provided that both an appropriation for that succeeding fiscal biennium and the certification required by section 126.07 of the Revised Code are made.

(D) Any installment payment contract entered into under this section shall be eligible for financing provided through the Ohio air quality development authority under Chapter 3706. of the Revised Code.

**Sec. 167.041.**

**Sec. 167.06.** (A) The governing bodies of the member governments may appropriate funds to meet the expenses of the council. Services of personnel, use of equipment, and office space, and other necessary services may be accepted from members as part of their financial support. The members of the council, or the state of Ohio, its departments, agencies, instrumentalities, or political subdivisions or any governmental unit may give to the council moneys, real property, personal property, or services. The council may establish schedules of dues to be paid by its voting members to aid the financing of the operations and programs of the council in the manner provided in the agreement establishing the council or in the by-laws of the council. The council may permit non-member political subdivisions to participate in any of its activities regardless of whether such political subdivisions have paid dues to the council.

(B) The council may accept funds, grants, gifts, and services from the government of the United States or its agencies, from this state or its departments, agencies, instrumentalities, or from political subdivisions or from any other governmental unit whether participating in the council or not, and from private and civic sources.

(C) A regional council of governments established to provide health care benefits to the member governments' employees and the employees' dependents may pool funds received from all the members of the council, including members from other states to the extent that the laws of such other states permit, for the payment of health care related claims and expenses.

(D) The council shall make an annual report of its activities to the member governments.

**Sec. 169.051.**

**Sec. 173.47.** (A) For purposes of publishing the Ohio long-term care consumer guide, the department of aging shall conduct or provide for the conduct of an annual customer satisfaction survey of each long-term care facility. The results of the surveys may include information obtained from long-term care facility residents, their families, or both.

(B) Each long-term care facility shall cooperate in the conduct of its annual customer satisfaction survey.

**Sec. 173.48.** (A)(1) The department of aging may charge annual fees to long-term care facilities for the publication of the Ohio long-term care consumer guide, as well as late penalties if applicable. The department may contract with any person or government entity to collect the fees on its behalf. All fees collected under this section shall be deposited in accordance with division (B) of this section.



(2) Except as provided in division (A)(3) of this section, the annual fees charged under this section shall not exceed the following amounts:

- (a) For each long-term care facility that is a nursing home, six hundred fifty dollars;
- (b) For each long-term care facility that is a residential care facility:
  - (i) Until June 30, 2016, three hundred dollars;
  - (ii) Beginning July 1, 2016, three hundred fifty dollars.

(3) The department, by rule adopted in accordance with Chapter 119. of the Revised Code, may establish deadlines for the payment of the annual fees charged under this section. If the annual fee is not received by the department within ninety days of any deadline established by the department, the rules may require a long-term care facility to pay a late penalty equal to and in addition to the amount of the annual fee charged under this section.

(4) Unless prohibited by federal law, fees paid by a long-term care facility that is a nursing facility, including late penalties, shall be reimbursed through the medicaid program.

(B) There is hereby created in the state treasury the long-term care consumer guide fund. Money collected from the fees charged for the publication of the Ohio long-term care consumer guide under division (A) of this section and any late penalties shall be credited to the fund. The department shall use money in the fund for costs associated with publishing the Ohio long-term care consumer guide, including, but not limited to, costs incurred in conducting or providing for the conduct of customer satisfaction surveys.

**Sec. 173.522.** (A) The department of aging shall create and administer the state-funded component of the PASSPORT program. The state-funded component shall not be administered as part of the medicaid program.

(B) For an individual to be eligible for the state-funded component of the PASSPORT program, the individual must meet one of the following requirements and meet the additional eligibility requirements applicable to the individual established in rules adopted under division (D) of this section:

(1) The individual must have been enrolled in the state-funded component on September 1, 1991, (as the state-funded component was authorized by uncodified law in effect at that time) and have had one or more applications for enrollment in the medicaid-funded component of the PASSPORT program (or, if the medicaid-funded component is terminated under division (C) of section 173.52 of the Revised Code, the unified long-term services and support medicaid waiver component) denied.

(2) The individual must have an application for the medicaid-funded component of the PASSPORT program (or, if the medicaid-funded component is terminated under division (C) of section 173.52 of the Revised Code, the unified long-term services and support medicaid waiver component) pending and the department or the department's designee must have determined that the individual meets the nonfinancial eligibility requirements of the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C) of section 173.52 of the Revised Code, the unified long-term services and support medicaid waiver component) and not have reason to doubt that the individual meets the financial eligibility requirements of the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C) of section 173.52 of the Revised Code, the unified long-term services and support medicaid waiver component).

(C) An individual who is eligible for the state-funded component of the PASSPORT program because the individual meets the requirement of division (B)(2) of this section may participate in the component on that basis for a period of time specified in rules adopted under division (D) of this section.

(D)(1) The director of aging shall adopt rules in accordance with section 111.15 of the Revised Code to implement the state-funded component of the PASSPORT program.

The rules shall include all of the following:

(a) Additional eligibility requirements for an individual to be eligible for the state-funded component of the PASSPORT program;

(b) The duration that an individual eligible for the state-funded component of the PASSPORT program under division (B)(2) of this section may participate in that component;

(c) Any other rules the director considers appropriate to implement the state-funded component of the PASSPORT program.

(2) The additional eligibility requirements established in the rules may vary for the different groups of individuals specified in divisions (B)(1) and (2) of this section.

**Sec. 173.523.** (A) An individual who is an applicant for or participant or former participant in the state-funded component of the PASSPORT program may appeal an adverse action taken or proposed to be taken by the department of aging or an entity designated by the department concerning participation in or services provided under the component if the action will result in any of the following:

(1) Denial of enrollment or continued enrollment in the component;

(2) Denial of or reduction in the amount of services requested by or offered to the individual under the component;

(3) Assessment of any patient liability payment pursuant to rules adopted by the department under this section.

The appeal shall be made in accordance with section 173.56 of the Revised Code and rules adopted pursuant to that section.

(B) An individual who is an applicant for or participant or former participant in the state-funded component of the PASSPORT program may not bring an appeal under this or any other section of the Revised Code if any of the following is the case:

(1) The individual has voluntarily withdrawn the application for enrollment in the component;

(2) The individual has voluntarily terminated enrollment in the component;

(3) The individual agrees with the action being taken or proposed;

(4) The individual fails to submit a written request for a hearing to the director of aging within the time specified in the rules adopted pursuant to section 173.56 of the Revised Code;

(5) The individual has received services under the component for the maximum time permitted by section 173.522 of the Revised Code.

**Sec. 173.543.** The department of aging shall create and administer the state-funded component of the assisted living program. The state-funded component shall not be administered as part of the medicaid program.

An individual who is eligible for the state-funded component may participate in the

component for a period of time specified in rules adopted under this section.

The director of aging shall adopt rules in accordance with section 111.15 of the Revised Code to implement the state-funded component. The rules shall specify the period that an individual eligible for the state-funded component may participate in the component.

**Sec. 173.544.** To be eligible for the state-funded component of the assisted living program, an individual must meet all of the following requirements:

(A) The individual must need an intermediate level of care as determined by an assessment conducted under section 173.546 of the Revised Code.

(B) The individual must have an application for the medicaid-funded component of the assisted living program (or, if the medicaid-funded component is terminated under division (C) of section 173.54 of the Revised Code, the unified long-term services and support medicaid waiver component) pending and the department or the department's designee must have determined that the individual meets the nonfinancial eligibility requirements of the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C) of section 173.54 of the Revised Code, the unified long-term services and support medicaid waiver component) and not have reason to doubt that the individual meets the financial eligibility requirements of the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C) of section 173.54 of the Revised Code, the unified long-term services and support medicaid waiver component).

(C) While receiving assisted living services under the state-funded component, the individual must reside in a residential care facility that is authorized by a valid provider agreement to participate in the component, including both of the following:

(1) A residential care facility that is owned or operated by a metropolitan housing authority that has a contract with the United States department of housing and urban development to receive an operating subsidy or rental assistance for the residents of the facility;

(2) A county or district home licensed as a residential care facility.

(D) The individual must meet all other eligibility requirements for the state-funded component established in rules adopted under section 173.543 of the Revised Code.

**Sec. 173.545.** (A) An individual who is an applicant for or participant or former participant in the state-funded component of the assisted living program may appeal an adverse action taken or proposed to be taken by the department of aging or an entity designated by the department concerning participation in or services provided under the component if the action will result in any of the following:

(1) Denial of enrollment or continued enrollment in the component;

(2) Denial of or reduction in the amount of services requested by or offered to the individual under the component;

(3) Assessment of any patient liability payment pursuant to rules adopted by the department under this section.

The appeal shall be made in accordance with section 173.56 of the Revised Code and rules adopted pursuant to that section.

(B) An individual who is an applicant for or participant or former participant in the state-funded component of the assisted living program may not bring an appeal under this or any other section of the Revised Code if any of the following is the case:

- (1) The individual has voluntarily withdrawn the application for enrollment in the component;
- (2) The individual has voluntarily terminated enrollment in the component;
- (3) The individual agrees with the action being taken or proposed;
- (4) The individual fails to submit a written request for a hearing to the director of aging within the time specified in the rules adopted pursuant to section 173.56 of the Revised Code;
- (5) The individual has received services under the component for the maximum time permitted by section 173.543 of the Revised Code.

**Sec. 173.548.**

**Sec. 174.02.** (A) The low- and moderate-income housing trust fund is hereby created in the state treasury. The fund consists of all appropriations made to the fund, housing trust fund fees collected by county recorders pursuant to section 317.36 of the Revised Code and deposited into the fund pursuant to section 319.63 of the Revised Code, money transferred from the housing trust reserve fund pursuant to section 174.09 of the Revised Code, and all grants, gifts, loan repayments, and contributions of money made from any source to the development services agency for deposit in the fund. All investment earnings of the fund shall be credited to the fund. The director of development services shall allocate a portion of the money in the fund to an account of the Ohio housing finance agency. The development services agency shall administer the fund. The Ohio housing finance agency shall use money allocated to it for implementing and administering its programs and duties under sections 174.03 and 174.05 of the Revised Code, and the development services agency shall use the remaining money in the fund for implementing and administering its programs and duties under sections 174.03 to 174.06 of the Revised Code. Use of all money drawn from the fund is subject to the following restrictions:

(1)(a) Not more than five per cent of the current year appropriation authority for the fund shall be allocated between grants to community development corporations for the community development corporation grant program and grants and loans to the Ohio community development finance fund, a private nonprofit corporation.

(b) In any year in which the amount in the fund exceeds one hundred thousand dollars and at least that much is allocated for the uses described in this section, not less than one hundred thousand dollars shall be used to provide training, technical assistance, and capacity building assistance to nonprofit development organizations.

(2) Not more than ten per cent of any current year appropriation authority for the fund shall be used for the emergency shelter housing grants program to make grants to private, nonprofit organizations and municipal corporations, counties, and townships for emergency shelter housing for the homeless and emergency shelter facilities serving unaccompanied youth seventeen years of age and younger. The grants shall be distributed pursuant to rules the director adopts and qualify as matching funds for funds obtained pursuant to the McKinney Act, 101 Stat. 85 (1987), 42 U.S.C.A. 11371 to 11378.

(3) In any fiscal year in which the amount in the fund exceeds the amount awarded pursuant to division (A)(1)(b) of this section by at least two hundred fifty thousand dollars, at least two hundred fifty thousand dollars from the fund shall be provided to the department of aging for the resident services coordinator program as established in section 173.08 of the Revised Code.

(4) Of all current year appropriation authority for the fund, not more than five per cent shall be used for administration.

(5) Not less than forty-five per cent of the funds awarded during any one fiscal year shall be for grants and loans to nonprofit organizations under section 174.03 of the Revised Code.

(6) Not less than fifty per cent of the funds awarded during any one fiscal year, excluding the amounts awarded pursuant to divisions (A)(1), (2), and (7) of this section, shall be for grants and loans for activities that provide housing and housing assistance to families and individuals in rural areas and small cities that are not eligible to participate as a participating jurisdiction under the "HOME Investment Partnerships Act," 104 Stat. 4094 (1990), 42 U.S.C. 12701 note, 12721.

(7) No money in the fund shall be used to pay for any legal services other than the usual and customary legal services associated with the acquisition of housing.

(8) Money in the fund may be used as matching money for federal funds received by the state, counties, municipal corporations, and townships for the activities listed in section 174.03 of the Revised Code.

(B) If, after the second quarter of any year, it appears to the director of development services that the full amount of the money in the fund designated in that year for activities that provide housing and housing assistance to families and individuals in rural areas and small cities under division (A) of this section will not be used for that purpose, the director may reallocate all or a portion of that amount for other housing activities. In determining whether or how to reallocate money under this division, the director may consult with and shall receive advice from the housing trust fund advisory committee.

**Sec. 174.09.**

**Sec. 187.03.** (A) JobsOhio may perform such functions as permitted and shall perform such duties as prescribed by law and as set forth in any contract entered into under section 187.04 of the Revised Code, but shall not be considered a state or public department, agency, office, body, institution, or instrumentality for purposes of section 1.60 or Chapter 102., 121., 125., or 149. of the Revised Code. JobsOhio and its board of directors are not subject to the following sections of Chapter 1702. of the Revised Code: sections 1702.03, 1702.08, 1702.09, 1702.21, 1702.24, 1702.26, 1702.27, 1702.28, 1702.29, 1702.301, 1702.33, 1702.34, 1702.37, 1702.38, 1702.40 to 1702.52, 1702.521, 1702.54, 1702.57, 1702.58, 1702.59, 1702.60, 1702.80, and 1702.99. Nothing in this division shall be construed to impair the powers and duties of the Ohio ethics commission described in section 102.06 of the Revised Code to investigate and enforce section 102.02 of the Revised Code with regard to individuals required to file statements under division (B)(2) of this section.

(B)(1) Directors and employees of JobsOhio are not employees or officials of the state and, except as provided in division (B)(2) of this section, are not subject to Chapter 102., 124., 145., or 4117. of the Revised Code.

(2) The chief investment officer, any other officer or employee with significant administrative, supervisory, contracting, or investment authority, and any director of JobsOhio shall file, with the Ohio ethics commission, a financial disclosure statement pursuant to section 102.02 of the Revised Code that includes, in place of the information required by divisions (A)(2)(b), (g), (h), and (i) of that section, the information required by divisions (A) and (B) of section 102.022 of the Revised Code. The governor shall comply with all applicable requirements of section 102.02 of the

Revised Code.

(3) Actual or in-kind expenditures for the travel, meals, or lodging of the governor or of any public official or employee designated by the governor for the purpose of this division shall not be considered a violation of section 102.03 of the Revised Code if the expenditures are made by the corporation, or on behalf of the corporation by any person, in connection with the governor's performance of official duties related to JobsOhio. The governor may designate any person, including a person who is a public official or employee as defined in section 102.01 of the Revised Code, for the purpose of this division if such expenditures are made on behalf of the person in connection with the governor's performance of official duties related to JobsOhio. A public official or employee so designated by the governor shall comply with all applicable requirements of section 102.02 of the Revised Code.

At the times and frequency agreed to under division (B)(2)(b) of section 187.04 of the Revised Code, beginning in 2012, the corporation shall file with the development services agency a written report of all such expenditures paid or incurred during the preceding calendar year. The report shall state the dollar value and purpose of each expenditure, the date of each expenditure, the name of the person that paid or incurred each expenditure, and the location, if any, where services or benefits of an expenditure were received, provided that any such information that may disclose proprietary information as defined in division (C) of this section shall not be included in the report.

(4) The prohibition applicable to former public officials or employees in division (A)(1) of section 102.03 of the Revised Code does not apply to any person appointed to be a director or hired as an employee of JobsOhio.

(5) Notwithstanding division (A)(2) of section 145.01 of the Revised Code, any person who is a former state employee shall no longer be considered a public employee for purposes of Chapter 145. of the Revised Code upon commencement of employment with JobsOhio.

(6) Any director, officer, or employee of JobsOhio may request an advisory opinion from the Ohio ethics commission with regard to questions concerning the provisions of sections 102.02 and 102.022 of the Revised Code to which the person is subject.

(C) Meetings of the board of directors at which a quorum of the board is required to be physically present pursuant to division (F) of section 187.01 of the Revised Code shall be open to the public except, by a majority vote of the directors present at the meeting, such a meeting may be closed to the public only for one or more of the following purposes:

(1) To consider business strategy of the corporation;

(2) To consider proprietary information belonging to potential applicants or potential recipients of business recruitment, retention, or creation incentives. For the purposes of this division, "proprietary information" means marketing plans, specific business strategy, production techniques and trade secrets, financial projections, or personal financial statements of applicants or members of the applicants' immediate family, including, but not limited to, tax records or other similar information not open to the public inspection.

(3) To consider legal matters, including litigation, in which the corporation is or may be involved;

(4) To consider personnel matters related to an individual employee of the corporation.

(D) The board of directors shall establish a reasonable method whereby any person may

obtain the time and place of all public meetings described in division (C) of this section. The method shall provide that any person, upon request and payment of a reasonable fee, may obtain reasonable advance notification of all such meetings.

(E) The board of directors shall promptly prepare, file, and maintain minutes of all public meetings described in division (C) of this section.

(F) Not later than March 1, 2012, and the first day of March of each year thereafter, the chief investment officer of JobsOhio shall prepare and submit a report of the corporation's activities for the preceding year to the governor, the speaker and minority leader of the house of representatives, and the president and minority leader of the senate. The annual report shall include the following:

- (1) An analysis of the state's economy;
- (2) A description of the structure, operation, and financial status of the corporation;
- (3) A description of the corporation's strategy to improve the state economy and the standards of measure used to evaluate its progress;
- (4) An evaluation of the performance of current strategies and major initiatives;
- (5) An analysis of any statutory or administrative barriers to successful economic development, business recruitment, and job growth in the state identified by JobsOhio during the preceding year.

**Sec. 191.04.** (A) In accordance with federal laws governing the confidentiality of individually identifiable health information, including the "Health Insurance Portability and Accountability Act of 1996," 104 Pub. L. No. 191, 110 Stat. 2021, 42 U.S.C. 1320d et seq., as amended, and regulations promulgated by the United States department of health and human services to implement the act, a state agency may exchange protected health information with another state agency relating to eligibility for or enrollment in a health plan or relating to participation in a government program providing public benefits if the exchange of information is necessary for either or both of the following:

- (1) Operating a health plan;
- (2) Coordinating, or improving the administration or management of, the health care-related functions of at least one government program providing public benefits.

(B) For fiscal years 2013 through 2019 only, a state agency also may exchange personally identifiable information with another state agency for purposes related to and in support of a health transformation initiative identified by the executive director of the office of health transformation pursuant to division (C) of section 191.06 of the Revised Code.

(C) With respect to a state agency that uses or discloses personally identifiable information, all of the following conditions apply:

(1) The state agency shall use or disclose the information only as permitted or required by state and federal law. In addition, if the information is obtained during fiscal year 2013, 2014, or 2015 from an exchange of personally identifiable information permitted under division (B) of this section, the agency shall also use or disclose the information in accordance with all operating protocols that apply to the use or disclosure.

(2) If the state agency is a state agency other than the department of medicaid and it uses or discloses protected health information that is related to a medicaid recipient and obtained from the department of medicaid or another agency operating a component of the medicaid program, the state

agency shall comply with all state and federal laws that apply to the department of medicaid when that department, as the state's single state agency to supervise the medicaid program, uses or discloses protected health information.

(3) A state agency shall implement administrative, physical, and technical safeguards for the purpose of protecting the confidentiality, integrity, and availability of personally identifiable information the creation, receipt, maintenance, or transmittal of which is affected or governed by this section.

(4) If a state agency discovers an unauthorized use or disclosure of unsecured protected health information or unsecured individually identifiable health information, the state agency shall, not later than seventy-two hours after the discovery, do all of the following:

(a) Identify the individuals who are the subject of the protected health information or individually identifiable health information;

(b) Report the discovery and the names of all individuals identified pursuant to division (C) (4)(a) of this section to all other state agencies and the executive director of the office of health transformation or the executive director's designee;

(c) Mitigate, to the extent reasonably possible, any potential adverse effects of the unauthorized use or disclosure.

(5) A state agency shall make available to the executive director of the office of health transformation or the executive director's designee, and to any other state or federal governmental entity required by law to have access on that entity's request, all internal practices, records, and documentation relating to personally identifiable information it receives, uses, or discloses that is affected or governed by this section.

(6) On termination or expiration of an operating protocol and if feasible, a state agency shall return or destroy all personally identifiable information received directly from or received on behalf of another state agency. If the personally identifiable information is not returned or destroyed, the state agency maintaining the information shall extend the protections set forth in this section for as long as it is maintained.

(7) If a state agency enters into a subcontract or, when required by 45 C.F.R. 164.502(e)(2), a business associate agreement, the subcontract or business associate agreement shall require the subcontractor or business associate to comply with the terms of this section as if the subcontractor or business associate were a state agency.

**Sec. 191.06.** (A) The provisions of this section shall apply only for fiscal years 2013 through 2019.

(B) The executive director of the office of health transformation or the executive director's designee may facilitate the coordination of operations and exchange of information between state agencies. The purpose of the executive director's authority under this section is to support agency collaboration for health transformation purposes, including modernization of the medicaid program, streamlining of health and human services programs in this state, and improving the quality, continuity, and efficiency of health care and health care support systems in this state.

(C) In furtherance of the authority of the executive director of the office of health transformation under division (B) of this section, the executive director or the executive director's designee shall identify each health transformation initiative in this state that involves the participation



of two or more state agencies and that permits or requires an interagency agreement to be entered into for purposes of specifying each participating agency's role in coordinating, operating, or funding the initiative, or facilitating the exchange of data or other information for the initiative. The executive director shall publish a list of the identified health transformation initiatives on the internet web site maintained by the office of health transformation.

(D) For each health transformation initiative that is identified under division (C) of this section, the executive director or the executive director's designee shall, in consultation with each participating agency, adopt one or more operating protocols. Notwithstanding any law enacted by the general assembly or rule adopted by a state agency, the provisions in a protocol shall supersede any provisions in an interagency agreement, including an interagency agreement entered into under section 5101.10 or 5162.35 of the Revised Code, that differ from the provisions of the protocol.

(E)(1) An operating protocol adopted under division (D) of this section shall include both of the following:

(a) All terms necessary to meet the requirements of "other arrangements" between a covered entity and a business associate that are referenced in 45 C.F.R. 164.314(a)(2)(ii);

(b) If known, the date on which the protocol will terminate or expire.

(2) In addition, a protocol may specify the extent to which each participating agency is responsible and accountable for completing the tasks necessary for successful completion of the initiative, including tasks relating to the following components of the initiative:

(a) Workflow;

(b) Funding;

(c) Exchange of data or other information that is confidential pursuant to state or federal law.

(F) An operating protocol adopted under division (D) of this section shall have the same force and effect as an interagency agreement or data sharing agreement, and each participating agency shall comply with it.

**Sec. 305.31.** The procedure for submitting to a referendum a resolution adopted by a board of county commissioners under division (H) of section 307.695 of the Revised Code that is not submitted to the electors of the county for their approval or disapproval; any resolution adopted by a board of county commissioners pursuant to division (D)(1) of section 307.697, section 322.02, or 322.06, sections 940.31 and 940.33, division (B)(1) of section 4301.421, section 4504.02, 5739.021, or 5739.026, division (A)(6), (A)(10), or (M) of section 5739.09, section 5741.021 or 5741.023, or division (C)(1) of section 5743.024 of the Revised Code; or a rule adopted pursuant to section 307.79 of the Revised Code shall be as prescribed by this section.

Except as otherwise provided in this paragraph, when a petition, signed by ten per cent of the number of electors who voted for governor at the most recent general election for the office of governor in the county, is filed with the county auditor within thirty days after the date the resolution is passed or rule is adopted by the board of county commissioners, or is filed within forty-five days after the resolution is passed, in the case of a resolution adopted pursuant to section 5739.021 of the Revised Code that is passed within one year after a resolution adopted pursuant to that section has been rejected or repealed by the electors, requesting that the resolution be submitted to the electors of the county for their approval or rejection, the county auditor shall, after ten days following the filing of the petition, and not later than four p.m. of the ninetieth day before the day of election, transmit a

certified copy of the text of the resolution or rule to the board of elections. In the case of a petition requesting that a resolution adopted under division (D)(1) of section 307.697, division (B)(1) of section 4301.421, or division (C)(1) of section 5743.024 of the Revised Code be submitted to electors for their approval or rejection, the petition shall be signed by seven per cent of the number of electors who voted for governor at the most recent election for the office of governor in the county. The county auditor shall transmit the petition to the board together with the certified copy of the resolution or rule. The board shall examine all signatures on the petition to determine the number of electors of the county who signed the petition. The board shall return the petition to the auditor within ten days after receiving it, together with a statement attesting to the number of such electors who signed the petition. The board shall submit the resolution or rule to the electors of the county, for their approval or rejection, at the succeeding general election held in the county in any year, or on the day of the succeeding primary election held in the county in even-numbered years, occurring subsequent to ninety days after the auditor certifies the sufficiency and validity of the petition to the board of elections.

No resolution shall go into effect until approved by the majority of those voting upon it. However, a rule shall take effect and remain in effect unless and until a majority of the electors voting on the question of repeal approve the repeal. Sections 305.31 to 305.41 of the Revised Code do not prevent a county, after the passage of any resolution or adoption of any rule, from proceeding at once to give any notice or make any publication required by the resolution or rule.

The board of county commissioners shall make available to any person, upon request, a certified copy of any resolution or rule subject to the procedure for submitting a referendum under sections 305.31 to 305.42 of the Revised Code beginning on the date the resolution or rule is adopted by the board. The board may charge a fee for the cost of copying the resolution or rule.

As used in this section, "certified copy" means a copy containing a written statement attesting that it is a true and exact reproduction of the original resolution or rule.

**Sec. 306.35.** Upon the creation of a regional transit authority as provided by section 306.32 of the Revised Code, and upon the qualifying of its board of trustees and the election of a president and a vice-president, the authority shall exercise in its own name all the rights, powers, and duties vested in and conferred upon it by sections 306.30 to 306.53 of the Revised Code. Subject to any reservations, limitations, and qualifications that are set forth in those sections, the regional transit authority:

- (A) May sue or be sued in its corporate name;
- (B) May make contracts in the exercise of the rights, powers, and duties conferred upon it;
- (C) May adopt and at will alter a seal and use such seal by causing it to be impressed, affixed, reproduced, or otherwise used, but failure to affix the seal shall not affect the validity of any instrument;
- (D)(1) May adopt, amend, and repeal bylaws for the administration of its affairs and rules for the control of the administration and operation of transit facilities under its jurisdiction, and for the exercise of all of its rights of ownership in those transit facilities;
- (2) The regional transit authority also may adopt bylaws and rules for the following purposes:
  - (a) To prohibit selling, giving away, or using any beer or intoxicating liquor on transit vehicles or transit property;

- (b) For the preservation of good order within or on transit vehicles or transit property;
  - (c) To provide for the protection and preservation of all property and life within or on transit vehicles or transit property;
  - (d) To regulate and enforce the collection of fares.
- (3) Before a bylaw or rule adopted under division (D)(2) of this section takes effect, the regional transit authority shall provide for a notice of its adoption to be published once a week for two consecutive weeks in a newspaper of general circulation within the territorial boundaries of the regional transit authority, or as provided in section 7.16 of the Revised Code.
- (4) No person shall violate any bylaw or rule of a regional transit authority adopted under division (D)(2) of this section.
- (E) May fix, alter, and collect fares, rates, and rentals and other charges for the use of transit facilities under its jurisdiction to be determined exclusively by it for the purpose of providing for the payment of the expenses of the regional transit authority, the acquisition, construction, improvement, extension, repair, maintenance, and operation of transit facilities under its jurisdiction, the payment of principal and interest on its obligations, and to fulfill the terms of any agreements made with purchasers or holders of any such obligations, or with any person or political subdivision;
- (F) Shall have jurisdiction, control, possession, and supervision of all property, rights, easements, licenses, moneys, contracts, accounts, liens, books, records, maps, or other property rights and interests conveyed, delivered, transferred, or assigned to it;
- (G)(1) Except as provided in division (G)(2) of this section, may acquire, construct, improve, extend, repair, lease, operate, maintain, or manage transit facilities within or without its territorial boundaries, considered necessary to accomplish the purposes of its organization and make charges for the use of transit facilities.
- (2) Beginning on July 1, 2011, a regional transit authority shall not extend its service or facilities into a political subdivision outside the territorial boundaries of the authority without giving prior notice to the legislative authority of the political subdivision. The legislative authority shall have thirty days after receiving the notice to comment on the proposal.
- (H) May levy and collect taxes as provided in sections 306.40 and 306.49 of the Revised Code;
- (I) May issue bonds secured by its general credit as provided in section 306.40 of the Revised Code;
- (J) May hold, encumber, control, acquire by donation, by purchase for cash or by installment payments, by lease-purchase agreement, by lease with option to purchase, by borrowing from any federal, state, or other governmental or private source, or by condemnation, and may construct, own, lease as lessee or lessor, use, and sell, real and personal property, or any interest or right in real and personal property, within or without its territorial boundaries, for the location or protection of transit facilities and improvements and access to transit facilities and improvements, the relocation of buildings, structures, and improvements situated on lands acquired by the regional transit authority, or for any other necessary purpose, or for obtaining or storing materials to be used in constructing, maintaining, and improving transit facilities under its jurisdiction;
- (K) May exercise the power of eminent domain to acquire property or any interest in property, within or without its territorial boundaries, that is necessary or proper for the construction

or efficient operation of any transit facility or access to any transit facility under its jurisdiction in accordance with section 306.36 of the Revised Code;

(L) May provide by agreement with any county, including the counties within its territorial boundaries, or any municipal corporation or any combination of counties or municipal corporations for the making of necessary surveys, appraisals, and examinations preliminary to the acquisition or construction of any transit facility and the amount of the expense for the surveys, appraisals, and examinations to be paid by each such county or municipal corporation;

(M) May provide by agreement with any county, including the counties within its territorial boundaries, or any municipal corporation or any combination of those counties or municipal corporations for the acquisition, construction, improvement, extension, maintenance, or operation of any transit facility owned or to be owned and operated by it or owned or to be owned and operated by any such county or municipal corporation and the terms on which it shall be acquired, leased, constructed, maintained, or operated, and the amount of the cost and expense of the acquisition, lease, construction, maintenance, or operation to be paid by each such county or municipal corporation;

(N) May issue revenue bonds for the purpose of acquiring, replacing, improving, extending, enlarging, or constructing any facility or permanent improvement that it is authorized to acquire, replace, improve, extend, enlarge, or construct, including all costs in connection with and incidental to the acquisition, replacement, improvement, extension, enlargement, or construction, and their financing, as provided by section 306.37 of the Revised Code;

(O) May enter into and supervise franchise agreements for the operation of a transit system;

(P) May accept the assignment of and supervise an existing franchise agreement for the operation of a transit system;

(Q) May exercise a right to purchase a transit system in accordance with the acquisition terms of an existing franchise agreement; and in connection with the purchase the regional transit authority may issue revenue bonds as provided by section 306.37 of the Revised Code or issue bonds secured by its general credit as provided in section 306.40 of the Revised Code;

(R) May apply for and accept grants or loans from the United States, the state, or any other public or any private source for the purpose of providing for the development or improvement of transit facilities, mass transportation facilities, equipment, techniques, methods, or services, and grants or loans needed to exercise a right to purchase a transit system pursuant to agreement with the owner of those transit facilities, or for providing lawful financial assistance to existing transit systems; and may provide any consideration that may be required in order to obtain those grants or loans from the United States, the state, or other public or private source, either of which grants or loans may be evidenced by the issuance of revenue bonds as provided by section 306.37 of the Revised Code or general obligation bonds as provided by section 306.40 of the Revised Code;

(S) May employ and fix the compensation of consulting engineers, superintendents, managers, and such other engineering, construction, accounting and financial experts, attorneys, and other employees and agents necessary for the accomplishment of its purposes;

(T) May procure insurance against loss to it by reason of damages to its properties resulting from fire, theft, accident, or other casualties or by reason of its liability for any damages to persons or property occurring in the construction or operation of transit facilities under its jurisdiction or the

conduct of its activities;

(U) May maintain funds that it considers necessary for the efficient performance of its duties;

(V) May direct its agents or employees, when properly identified in writing, after at least five days' written notice, to enter upon lands within or without its territorial boundaries in order to make surveys and examinations preliminary to the location and construction of transit facilities, without liability to it or its agents or employees except for actual damage done;

(W) On its own motion, may request the appropriate zoning board, as defined in section 4563.03 of the Revised Code, to establish and enforce zoning regulations pertaining to any transit facility under its jurisdiction in the manner prescribed by sections 4563.01 to 4563.21 of the Revised Code;

(X) If it acquires any existing transit system, shall assume all the employer's obligations under any existing labor contract between the employees and management of the system. If the board acquires, constructs, controls, or operates any such facilities, it shall negotiate arrangements to protect the interests of employees affected by the acquisition, construction, control, or operation. The arrangements shall include, but are not limited to:

(1) The preservation of rights, privileges, and benefits under existing collective bargaining agreements or otherwise, the preservation of rights and benefits under any existing pension plans covering prior service, and continued participation in social security in addition to participation in the public employees retirement system as required in Chapter 145. of the Revised Code;

(2) The continuation of collective bargaining rights;

(3) The protection of individual employees against a worsening of their positions with respect to their employment;

(4) Assurances of employment to employees of those transit systems and priority reemployment of employees terminated or laid off;

(5) Paid training or retraining programs;

(6) Signed written labor agreements.

The arrangements may include provisions for the submission of labor disputes to final and binding arbitration.

(Y) May provide for and maintain security operations, including a transit police department, subject to section 306.352 of the Revised Code. Regional transit authority police officers shall have the power and duty to act as peace officers within transit facilities owned, operated, or leased by the transit authority to protect the transit authority's property and the person and property of passengers, to preserve the peace, and to enforce all laws of the state and ordinances and regulations of political subdivisions in which the transit authority operates. Regional transit authority police officers also shall have the power and duty to act as peace officers when they render emergency assistance outside their jurisdiction to any other peace officer who is not a regional transit authority police officer and who has arrest authority under section 2935.03 of the Revised Code. Regional transit authority police officers may render emergency assistance if there is a threat of imminent physical danger to the peace officer, a threat of physical harm to another person, or any other serious emergency situation and if either the peace officer who is assisted requests emergency assistance or it appears that the peace officer who is assisted is unable to request emergency assistance and the circumstances observed by the regional transit authority police officer reasonably indicate that emergency assistance is

appropriate.

Before exercising powers of arrest and the other powers and duties of a peace officer, each regional transit authority police officer shall take an oath and give bond to the state in a sum that the board of trustees prescribes for the proper performance of the officer's duties.

Persons employed as regional transit authority police officers shall complete training for the position to which they have been appointed as required by the Ohio peace officer training commission as authorized in section 109.77 of the Revised Code, or be otherwise qualified. The cost of the training shall be provided by the regional transit authority.

(Z) May procure a policy or policies insuring members of its board of trustees against liability on account of damages or injury to persons and property resulting from any act or omission of a member in the member's official capacity as a member of the board or resulting solely out of the member's membership on the board;

(AA) May enter into any agreement for the sale and leaseback or lease and leaseback of transit facilities, which agreement may contain all necessary covenants for the security and protection of any lessor or the regional transit authority including, but not limited to, indemnification of the lessor against the loss of anticipated tax benefits arising from acts, omissions, or misrepresentations of the regional transit authority. In connection with that transaction, the regional transit authority may contract for insurance and letters of credit and pay any premiums or other charges for the insurance and letters of credit. The fiscal officer shall not be required to furnish any certificate under section 5705.41 of the Revised Code in connection with the execution of any such agreement.

(BB) In regard to any contract entered into on or after March 19, 1993, for the rendering of services or the supplying of materials or for the construction, demolition, alteration, repair, or reconstruction of transit facilities in which a bond is required for the faithful performance of the contract, may permit the person awarded the contract to utilize a letter of credit issued by a bank or other financial institution in lieu of the bond;

(CC) May enter into agreements with municipal corporations located within the territorial jurisdiction of the regional transit authority permitting regional transit authority police officers employed under division (Y) of this section to exercise full arrest powers, as provided in section 2935.03 of the Revised Code, for the purpose of preserving the peace and enforcing all laws of the state and ordinances and regulations of the municipal corporation within the areas that may be agreed to by the regional transit authority and the municipal corporation.

**Sec. 307.679.**

**Sec. 319.63.** (A) During the first thirty days of each calendar quarter, the county auditor shall pay to the treasurer of state all amounts that the county recorder collected as housing trust fund fees pursuant to section 317.36 of the Revised Code during the previous calendar quarter. If payment is made to the treasurer of state within the first thirty days of the quarter, the county auditor may retain an administrative fee of one per cent of the amount of the trust fund fees collected during the previous calendar quarter.

(B) The treasurer of state shall deposit the first fifty million dollars of housing trust fund fees received each year pursuant to this section into the low- and moderate-income housing trust fund created under section 174.02 of the Revised Code. The treasurer of state shall deposit any amounts received each year in excess of fifty million dollars into the housing trust reserve fund created under

section 174.09 of the Revised Code, unless the cash balance of the housing trust reserve fund is greater than fifteen million dollars. In that event, the treasurer of state shall deposit any amounts received each year in excess of fifty million dollars into the state general revenue fund.

(C) The county auditor shall deposit the administrative fee that the auditor is permitted to retain pursuant to division (A) of this section into the county general fund for the county recorder to use in administering the trust fund fee.

**Sec. 321.24.** (A) On or before the fifteenth day of February, in each year, the county treasurer shall settle with the county auditor for all taxes and assessments that the treasurer has collected on the general duplicate of real and public utility property at the time of making the settlement. If the county treasurer has made or will make advance payments to the several taxing districts of current year unpaid taxes under section 321.341 of the Revised Code before collecting them, the county treasurer shall take the advance payments into account for purposes of the settlement with the county auditor under this division.

(B) On or before the thirtieth day of June, in each year, the treasurer shall settle with the auditor for all advance payments of general personal and classified property taxes that the treasurer has received at the time of making the settlement.

(C) On or before the tenth day of August, in each year, the treasurer shall settle with the auditor for all taxes and assessments that the treasurer has collected on the general duplicates of real and public utility property at the time of making such settlement, not included in the preceding February settlement. If the county treasurer has made or will make advance payments to the several taxing districts of the current year delinquent taxes under section 321.341 of the Revised Code before collecting them, the county treasurer shall take the advance payments into account for purposes of the settlement with the county auditor under this division.

(D) On or before the thirty-first day of October, in each year, the treasurer shall settle with the auditor for all taxes that the treasurer has collected on the general personal and classified property duplicates, and for all advance payments of general personal and classified property taxes, not included in the preceding June settlement, that the treasurer has received at the time of making such settlement.

(E) In the event the time for the payment of taxes is extended, pursuant to section 323.17 of the Revised Code, the date on or before which settlement for the taxes so extended must be made, as herein prescribed, shall be deemed to be extended for a like period of time. At each such settlement, the auditor shall allow to the treasurer, on the moneys received or collected and accounted for by the treasurer, the treasurer's fees, at the rate or percentage allowed by law, at a full settlement of the treasurer.

(F) Within thirty days after the day of each settlement of taxes required under divisions (A) and (C) of this section, the treasurer shall certify to the tax commissioner any adjustments that have been made to the amount certified previously pursuant to section 319.302 of the Revised Code and that the settlement has been completed. Upon receipt of such certification, the commissioner shall provide for payment to the county treasurer from the general revenue fund of an amount equal to one-half of the amount certified by the treasurer in the preceding tax year under section 319.302 of the Revised Code, less one-half of the amount computed for all taxing districts in that county for the current fiscal year under section 5703.80 of the Revised Code for crediting to the property tax

administration fund. Such payment shall be credited upon receipt to the county's undivided income tax fund, and the county auditor shall transfer to the county general fund from the amount thereof the total amount of all fees and charges which the auditor and treasurer would have been authorized to receive had such section not been in effect and that amount had been levied and collected as taxes. The county auditor shall distribute the amount remaining among the various taxing districts in the county as if it had been levied, collected, and settled as real property taxes. The amount distributed to each taxing district shall be reduced by the total of the amounts computed for the district under section 5703.80 of the Revised Code, but the reduction shall not exceed the amount that otherwise would be distributed to the taxing district under this division. The tax commissioner shall make available to taxing districts such information as is sufficient for a taxing district to be able to determine the amount of the reduction in its distribution under this section.

(G)(1) Within thirty days after the day of the settlement required in division (D) of this section, the county treasurer shall notify the tax commissioner that the settlement has been completed. Upon receipt of that notification, the commissioner shall provide for payment to the county treasurer from the general revenue fund of an amount equal to the amount certified under former section 319.311 of the Revised Code and paid in the state's fiscal year 2003 multiplied by the percentage specified in division (G)(2) of this section. The payment shall be credited upon receipt to the county's undivided income tax fund, and the county auditor shall distribute the amount thereof among the various taxing districts of the county as if it had been levied, collected, and settled as personal property taxes. The amount received by a taxing district under this division shall be apportioned among its funds in the same proportion as the current year's personal property taxes are apportioned.

(2) Payments required under division (G)(1) of this section shall be made at the following percentages of the amount certified under former section 319.311 of the Revised Code and paid under division (G)(1) of this section in the state's fiscal year 2003:

- (a) In fiscal year 2004, ninety per cent;
- (b) In fiscal year 2005, eighty per cent;
- (c) In fiscal year 2006, sixty-four per cent;
- (d) In fiscal year 2007, forty per cent;
- (e) In fiscal year 2008, thirty-two per cent;
- (f) In fiscal year 2009, sixteen per cent.

After fiscal year 2009, no payments shall be made under division (G)(1) of this section.

(H)(1) On or before the fifteenth day of April each year, the county treasurer shall settle with the county auditor for all manufactured home taxes that the county treasurer has collected on the manufactured home tax duplicate at the time of making the settlement.

(2) On or before the fifteenth day of September each year, the county treasurer shall settle with the county auditor for all remaining manufactured home taxes that the county treasurer has collected on the manufactured home tax duplicate at the time of making the settlement.

(3) If the time for payment of such taxes is extended under section 4503.06 of the Revised Code, the time for making the settlement as prescribed by divisions (H)(1) and (2) of this section is extended for a like period of time.

(I) On or before the second Monday in September of each year, the county treasurer shall



certify to the tax commissioner the total amount by which the manufactured home taxes levied in that year were reduced pursuant to section 319.302 of the Revised Code. Within ninety days after the receipt of such certification, the commissioner shall provide for payment to the county treasurer from the general revenue fund of an amount equal to the amount certified by the treasurer. Such payment shall be credited upon receipt to the county's undivided income tax fund, and the county auditor shall transfer to the county general fund from the amount thereof the total amount of all fees and charges that the auditor and treasurer would have been authorized to receive had such section not been in effect and that amount had been levied and collected as manufactured home taxes. The county auditor shall distribute the amount remaining among the various taxing districts in the county as if it had been levied, collected, and settled as manufactured home taxes.

**Sec. 323.13.** Except as provided in section 323.134 of the Revised Code, immediately upon receipt of any tax duplicate from the county auditor, but not less than twenty days prior to the last date on which the first one-half taxes may be paid without penalty as prescribed in section 323.12 or 323.17 of the Revised Code, the county treasurer shall cause to be prepared and mailed or delivered to each person charged on such duplicate with taxes or to an agent designated by such person, the tax bill prescribed by the commissioner of tax equalization under section 323.131 of the Revised Code. When taxes are paid by installments, the county treasurer shall mail or deliver to each person charged on such duplicate or the agent designated by such person, a second tax bill showing the amount due at the time of the second tax collection. The second-half tax bill shall be mailed or delivered at least twenty days prior to the close of the second-half tax collection period. The treasurer shall maintain a record of the person or agent to whom each bill is mailed or delivered.

After delivery of the delinquent land duplicate as prescribed in section 5721.011 of the Revised Code, the county treasurer may prepare and mail to each person in whose name property therein is listed an additional tax bill showing the total amount of delinquent taxes appearing on such duplicate against such property. The tax bill shall include a notice that the interest charge prescribed by division (B) of section 323.121 of the Revised Code has begun to accrue.

A change in the mailing address of any tax bill shall be made in writing to the county treasurer.

Upon certification by the county auditor of the apportionment of taxes following the transfer of a part of a tract or lot of real estate, and upon request by the owner of any transferred or remaining part of such tract or parcel, the treasurer shall cause to be prepared and mailed or delivered to such owner a tax bill for the taxes allocated to the owner's part, together with the penalties, interest, and other charges.

Failure to receive any bill required by this section does not excuse failure or delay to pay any taxes shown on such bill or, except as provided in division (B)(1) of section 5715.39 of the Revised Code, avoid any penalty, interest, or charge for such delay.

**Sec. 325.03.** Each county auditor shall be classified, for salary purposes, according to the population of the county. All county auditors shall receive annual compensation in accordance with the following schedules and in accordance with section 325.18 of the Revised Code:

CLASSIFICATION AND COMPENSATION SCHEDULE

FOR CALENDAR YEAR 2002

Class	Population Range	Compensation
1	1 - 20,000	\$41,765
2	20,001 - 40,000	44,246
3	40,001 - 55,000	46,585
4	55,001 - 70,000	48,139
5	70,001 - 85,000	49,731
6	85,001 - 95,000	54,957
7	95,001 - 105,000	56,633
8	105,001 - 125,000	58,272
9	125,001 - 175,000	61,480
10	175,001 - 275,000	63,560
11	275,001 - 400,000	68,962
12	400,001 - 550,000	71,306
13	550,001 - 1,000,000	73,485
14	Over 1,000,000	75,563

CLASSIFICATION AND COMPENSATION SCHEDULE  
FOR CALENDAR YEAR 2016

Class	Population Range	Compensation
1	1 - 20,000	\$56,103
2	20,001 - 35,000	59,069
3	35,001 - 55,000	61,039
4	55,001 - 95,000	71,810
5	95,001 - 200,000	80,592
6	200,001 - 400,000	90,414
7	400,001 - 1,000,000	95,810
8	1,000,001 or more	98,684

CLASSIFICATION AND COMPENSATION SCHEDULE  
FOR CALENDAR YEAR 2017 AND THEREAFTER

Class	Population Range	Compensation
1	1 - 55,000	\$64,091
2	55,001 - 95,000	75,400
3	95,001 - 200,000	84,621
4	200,001 - 400,000	94,935
5	400,001 - 1,000,000	100,601
6	1,000,001 or more	103,618

**Sec. 325.04.** Each county treasurer shall be classified, for salary purposes, according to the population of the county. All county treasurers shall receive annual compensation in accordance with the following schedules and in accordance with section 325.18 of the Revised Code:

CLASSIFICATION AND COMPENSATION SCHEDULE  
FOR CALENDAR YEAR 2001

Class	Population Range	Compensation
1	1 - 20,000	\$33,399
2	20,001 - 35,000	35,969
3	35,001 - 55,000	38,537
4	55,001 - 95,000	45,389
5	95,001 - 200,000	52,240
6	200,001 - 400,000	58,234
7	400,001 - 1,000,000	62,516
8	1,000,001 or more	64,704

CLASSIFICATION AND COMPENSATION SCHEDULE

FOR CALENDAR YEAR 2016

Class	Population Range	Compensation
1	1 - 20,000	\$41,115
2	20,001 - 35,000	44,281
3	35,001 - 55,000	47,441
4	5,001 - 95,000	55,875
5	95,001 - 200,000	64,309
6	200,001 - 400,000	71,689
7	400,001 - 1,000,000	76,959
8	1,000,001 or more	79,653

CLASSIFICATION AND COMPENSATION SCHEDULE

FOR CALENDAR YEAR 2017 AND THEREAFTER

Class	Population Range	Compensation
1	1 - 55,000	\$49,813
2	55,001 - 95,000	58,668
3	95,001 - 200,000	67,525
4	200,001 - 400,000	75,273
5	400,001 - 1,000,000	80,807
6	1,000,001 or more	83,636

**Sec. 325.06.** (A) Each sheriff shall be classified, for salary purposes, according to the population of the county. All sheriffs shall receive annual compensation in accordance with the following schedules and in accordance with section 325.18 of the Revised Code:

CLASSIFICATION AND COMPENSATION SCHEDULE

FOR CALENDAR YEAR 2001

Class	Population Range	Compensation
1	1 - 20,000	\$40,855
2	20,001 - 35,000	43,425
3	35,001 - 55,000	45,139
4	55,001 - 95,000	52,595
5	95,001 - 200,000	64,082

6	200,001 - 400,000	71,790
7	400,001 - 1,000,000	76,073
8	1,000,001 or more	78,279

## CLASSIFICATION AND COMPENSATION SCHEDULE

## FOR CALENDAR YEAR 2016

Class	Population Range	Compensation
1	1 - 20,000	\$50,295
2	20,001 - 35,000	53,458
3	35,001 - 55,000	55,568
4	55,001 - 95,000	64,747
5	95,001 - 200,000	78,888
6	200,001 - 400,000	88,379
7	400,001 - 1,000,000	93,650
8	1,000,001 or more	96,364

## CLASSIFICATION AND COMPENSATION SCHEDULE

## FOR CALENDAR YEAR 2017

Class	Population Range	Compensation
1	1 - 55,000	\$58,347
2	55,001 - 95,000	67,985
3	95,001 - 200,000	82,832
4	200,001 - 400,000	92,797
5	400,001 - 1,000,000	98,332
6	1,000,001 or more	101,182

## CLASSIFICATION AND COMPENSATION SCHEDULE

## FOR CALENDAR YEAR 2018

Class	Population Range	Compensation
1	1 - 55,000	\$61,624
2	55,001 - 95,000	71,384
3	95,001 - 200,000	86,974
4	200,001 - 400,000	97,437
5	400,001 - 1,000,000	103,249
6	1,000,001 or more	106,241

## CLASSIFICATION AND COMPENSATION SCHEDULE

## FOR CALENDAR YEAR 2019 AND THEREAFTER

Class	Population Range	Compensation
1	1 - 55,000	\$64,327
2	55,001 - 95,000	74,953
3	95,001 - 200,000	91,322
4	200,001 - 400,000	102,309

5	400,001 - 1,000,000	108,411
6	1,000,001 or more	111,553

(B) In addition to the annual compensation that a sheriff receives under this section for performing the duties of sheriff prescribed by law, each sheriff shall receive in consideration of the impact of Amended Substitute Senate Bill No. 2 of the 121st general assembly on the workload of the sheriff, an additional amount equal to one-eighth of the annual compensation that the sheriff receives under division (A) of this section and section 325.18 of the Revised Code. This additional compensation shall be paid biweekly from the county treasury if adequate funds have been appropriated by the general assembly. If adequate funds have been appropriated by the general assembly for the purposes of this section, not later than the fifteenth day of March and September of each year, the attorney general shall reimburse the fiscal officer of the county the amount of additional compensation paid under this division, the related amount of employer contributions made under Chapter 145. of the Revised Code as required by the public employees retirement board, and the related amount of the payments to the social security administration for employer contributions for Medicare part A. The fiscal officer shall deposit the revenue in the county treasury.

**Sec. 325.08.** Each clerk of the court of common pleas shall be classified, for salary purposes, according to the population of the county. All clerks of the court of common pleas shall receive annual compensation in accordance with the following schedules and in accordance with section 325.18 of the Revised Code:

CLASSIFICATION AND COMPENSATION SCHEDULE  
FOR CALENDAR YEAR 2001

Class	Population Range	Compensation
1	1 - 20,000	\$33,399
2	20,001 - 35,000	35,969
3	35,001 - 55,000	38,537
4	55,001 - 95,000	45,389
5	95,001 - 200,000	52,240
6	200,001 - 400,000	58,234
7	400,001 - 1,000,000	62,516
8	1,000,001 or more	64,704

CLASSIFICATION AND COMPENSATION SCHEDULE  
FOR CALENDAR YEAR 2016

Class	Population Range	Compensation
1	1 - 20,000	\$41,115
2	20,001 - 35,000	44,281
3	35,001 - 55,000	47,441
4	55,001 - 95,000	55,875
5	95,001 - 200,000	64,309
6	200,001 - 400,000	71,689
7	400,001 - 1,000,000	76,959
8	1,000,001 or more	79,653

CLASSIFICATION AND COMPENSATION SCHEDULE  
FOR CALENDAR YEAR 2017 AND THEREAFTER

Class	Population Range	Compensation
1	1 - 55,000	\$49,813
2	55,001 - 95,000	58,668
3	95,001 - 200,000	67,525
4	200,001 - 400,000	75,273
5	400,001 - 1,000,000	80,807
6	1,000,001 or more	83,636

**Sec. 325.09.** Each county recorder shall be classified, for salary purposes, according to the population of the county. All county recorders shall receive annual compensation in accordance with the following schedules and in accordance with section 325.18 of the Revised Code:

CLASSIFICATION AND COMPENSATION SCHEDULE  
FOR CALENDAR YEAR 2001

Class	Population Range	Compensation
1	1 - 20,000	\$32,543
2	20,001 - 35,000	35,112
3	35,001 - 55,000	36,825
4	55,001 - 95,000	42,820
5	95,001 - 200,000	48,815
6	200,001 - 400,000	55,665
7	400,001 - 1,000,000	60,803
8	1,000,001 or more	63,479

CLASSIFICATION AND COMPENSATION SCHEDULE  
FOR CALENDAR YEAR 2016

Class	Population Range	Compensation
1	1 - 20,000	\$40,061
2	20,001 - 35,000	43,223
3	35,001 - 55,000	45,333
4	55,001 - 95,000	52,713
5	95,001 - 200,000	60,094
6	200,001 - 400,000	68,525
7	400,001 - 1,000,000	74,851
8	1,000,001 or more	78,144

CLASSIFICATION AND COMPENSATION SCHEDULE  
FOR CALENDAR YEAR 2017 AND THEREAFTER

Class	Population Range	Compensation
1	1 - 55,000	\$47,599
2	55,001 - 95,000	55,349

3	95,001 - 200,000	63,098
4	200,001 - 400,000	71,951
5	400,001 - 1,000,000	78,594
6	1,000,001 or more	82,051

**Sec. 325.10.** Each county commissioner shall be classified, for salary purposes, according to the population of the county. All county commissioners shall receive annual compensation in accordance with the following schedules and in accordance with section 325.18 of the Revised Code:

CLASSIFICATION AND COMPENSATION SCHEDULE

FOR CALENDAR YEAR 2001

Class	Population Range	Compensation
1	1 - 20,000	\$31,860
2	20,001 - 35,000	34,874
3	35,001 - 55,000	37,888
4	55,001 - 95,000	47,359
5	95,001 - 200,000	55,970
6	200,001 - 400,000	65,656
7	400,001 - 1,000,000	74,269
8	1,000,001 or more	78,874

CLASSIFICATION AND COMPENSATION SCHEDULE

FOR CALENDAR YEAR 2016

Class	Population Range	Compensation
1	1 - 20,000	\$39,221
2	20,001 - 35,000	42,932
3	35,001 - 55,000	46,642
4	55,001 - 95,000	58,300
5	95,001 - 200,000	68,901
6	200,001 - 400,000	80,825
7	400,001 - 1,000,000	91,429
8	1,000,001 or more	97,098

CLASSIFICATION AND COMPENSATION SCHEDULE

FOR CALENDAR YEAR 2017 AND THEREAFTER

Class	Population Range	Compensation
1	1 - 55,000	\$48,974
2	55,001 - 95,000	61,215
3	95,001 - 200,000	72,346
4	200,001 - 400,000	84,866
5	400,001 - 1,000,000	96,000
6	1,000,001 or more	101,953

**Sec. 325.11.** (A) Each prosecuting attorney shall be classified, for salary purposes, according to the population of the county. All prosecuting attorneys shall receive annual compensation in

accordance with the following schedules and in accordance with section 325.18 of the Revised Code:

CLASSIFICATION AND COMPENSATION SCHEDULE

FOR CALENDAR YEAR 2001 FOR

PROSECUTING ATTORNEYS WITH A PRIVATE PRACTICE

Class	Population Range	Compensation
1	1 - 20,000	\$46,245
2	20,001 - 35,000	47,958
3	35,001 - 55,000	49,671
4	55,001 - 95,000	55,237
5	95,001 - 200,000	59,947
6	200,001 - 400,000	66,799
7	400,001 - 1,000,000	71,079
8	1,000,001 or more	73,709

CLASSIFICATION AND COMPENSATION SCHEDULE

FOR CALENDAR YEAR 2001 FOR

PROSECUTING ATTORNEYS WITHOUT A PRIVATE PRACTICE

Class	Population Range	Compensation
1	1 - 20,000	\$78,952
2	20,001 - 35,000	88,821
3	35,001 - 55,000	88,821
4	55,001 - 95,000	98,689
5	95,001 - 200,000	98,689
6	200,001 - 400,000	98,689
7	400,001 - 1,000,000	101,085
8	1,000,001 or more	103,480

CLASSIFICATION AND COMPENSATION SCHEDULE

FOR CALENDAR YEAR 2016 FOR

PROSECUTING ATTORNEYS WITH A PRIVATE PRACTICE

Class	Population Range	Compensation
1	1 - 20,000	\$56,929
2	20,001 - 35,000	59,037
3	35,001 - 55,000	61,146
4	55,001 - 95,000	67,999
5	95,001 - 200,000	73,798
6	200,001 - 400,000	82,233
7	400,001 - 1,000,000	87,502
8	1,000,001 or more	90,739

CLASSIFICATION AND COMPENSATION SCHEDULE



FOR CALENDAR YEAR 2016 FOR  
PROSECUTING ATTORNEYS WITHOUT A PRIVATE PRACTICE

Class	Population Range	Compensation
1	1 - 20,000	\$97,193
2	20,001 - 35,000	109,342
3	35,001 - 55,000	109,342
4	55,001 - 95,000	121,488
5	95,001 - 200,000	121,488
6	200,001 - 400,000	121,488
7	400,001 - 1,000,000	124,439
8	1,000,001 or more	127,389

CLASSIFICATION AND COMPENSATION SCHEDULE

FOR CALENDAR YEAR 2017 FOR

PROSECUTING ATTORNEYS WITH A PRIVATE PRACTICE

Class	Population Range	Compensation
1	1 - 55,000	\$64,203
2	55,001 - 95,000	71,399
3	95,001 - 200,000	77,488
4	200,001 - 400,000	86,344
5	400,001 - 1,000,000	91,877
6	1,000,001 or more	95,276

CLASSIFICATION AND COMPENSATION SCHEDULE

FOR CALENDAR YEAR 2017 FOR

PROSECUTING ATTORNEYS WITHOUT A PRIVATE PRACTICE

Class	Population Range	Compensation
1	1 - 55,000	\$114,809
2	55,001 - 95,000	127,563
3	95,001 - 200,000	127,563
4	200,001 - 400,000	127,563
5	400,001 - 1,000,000	130,661
6	1,000,001 or more	133,759

CLASSIFICATION AND COMPENSATION SCHEDULE

FOR CALENDAR YEAR 2018 FOR

PROSECUTING ATTORNEYS WITH A PRIVATE PRACTICE

Class	Population Range	Compensation
1	1 - 55,000	\$67,413
2	55,001 - 95,000	74,969
3	95,001 - 200,000	81,363

4	200,001 - 400,000	90,662
5	400,001 - 1,000,000	96,471
6	1,000,001 or more	100,040

## CLASSIFICATION AND COMPENSATION SCHEDULE

## FOR CALENDAR YEAR 2018 FOR

## PROSECUTING ATTORNEYS WITHOUT A PRIVATE PRACTICE

Class	Population Range	Compensation
1	1 - 55,000	\$120,549
2	55,001 - 95,000	133,941
3	95,001 - 200,000	133,941
4	200,001 - 400,000	133,941
5	400,001 - 1,000,000	137,194
6	1,000,001 or more	140,447

## CLASSIFICATION AND COMPENSATION SCHEDULE

## FOR CALENDAR YEAR 2019 AND THEREAFTER FOR

## PROSECUTING ATTORNEYS WITH A PRIVATE PRACTICE

Class	Population Range	Compensation
1	1 - 55,000	\$70,784
2	55,001 - 95,000	78,717
3	95,001 - 200,000	85,431
4	200,001 - 400,000	95,195
5	400,001 - 1,000,000	101,294
6	1,000,001 or more	105,042

## CLASSIFICATION AND COMPENSATION SCHEDULE

## FOR CALENDAR YEAR 2019 AND THEREAFTER FOR

## PROSECUTING ATTORNEYS WITHOUT A PRIVATE PRACTICE

Class	Population Range	Compensation
1	1 - 55,000	\$126,577
2	55,001 - 95,000	140,638
3	95,001 - 200,000	140,638
4	200,001 - 400,000	140,638
5	400,001 - 1,000,000	144,053
6	1,000,001 or more	147,469

(B) Notwithstanding the compensation specified in division (A) of this section, a prosecuting attorney in a county with a population of one million one or more who does not engage in the private practice of law shall receive in calendar year 2020 and in each calendar year thereafter annual compensation in an amount equal to the total compensation paid to a judge of the court of common pleas of that county pursuant to sections 141.04 and 141.05 of the Revised Code for the same calendar year, reduced by one hundred dollars.

(C) A prosecuting attorney shall not engage in the private practice of law unless before taking office the prosecuting attorney notifies the board of county commissioners of the intention to engage in the private practice of law.

A prosecuting attorney may elect to engage or not to engage in the private practice of law before the commencement of each new term of office, and a prosecuting attorney who engages in the private practice of law who intends not to engage in the private practice of law during the prosecuting attorney's next term of office shall so notify the board of county commissioners. A prosecuting attorney who elects not to engage in the private practice of law may, for a period of six months after taking office, engage in the private practice of law for the purpose of concluding the affairs of private practice of law without any diminution of salary as provided for in division (A) of this section and in section 325.18 of the Revised Code.

(D) As used in this section, "salary" does not include any portion of the cost, premium, or charge for health, medical, hospital, dental, or surgical benefits, or any combination of those benefits, covering the prosecuting attorney and paid on that person's behalf by a governmental entity.

**Sec. 325.14.** (A) Each county engineer shall be classified, for salary purposes, according to the population of the county. All county engineers shall receive annual compensation in accordance with the following schedules and in accordance with section 325.18 of the Revised Code:

CLASSIFICATION AND COMPENSATION SCHEDULE  
FOR CALENDAR YEAR 2001 FOR  
COUNTY ENGINEERS WITH A PRIVATE PRACTICE

Class	Population Range	Compensation
1	1 - 20,000	\$48,300
2	20,001 - 35,000	50,356
3	35,001 - 55,000	52,411
4	55,001 - 95,000	56,521
5	95,001 - 200,000	60,803
6	200,001 - 400,000	64,229
7	400,001 - 1,000,000	68,510
8	1,000,001 or more	71,182

CLASSIFICATION AND COMPENSATION SCHEDULE  
FOR CALENDAR YEAR 2001 FOR  
COUNTY ENGINEERS WITHOUT A PRIVATE PRACTICE

Class	Population Range	Compensation
1	1 - 20,000	\$68,691
2	20,001 - 35,000	70,746
3	35,001 - 55,000	72,801
4	55,001 - 95,000	76,912
5	95,001 - 200,000	81,193
6	200,001 - 400,000	84,619
7	400,001 - 1,000,000	88,901

8  
 1,000,001 or more 91,568  
 CLASSIFICATION AND COMPENSATION SCHEDULE  
 FOR CALENDAR YEAR 2016 FOR  
 COUNTY ENGINEERS WITH A PRIVATE PRACTICE

Class	Population Range	Compensation
1	1 - 20,000	\$59,460
2	20,001 - 35,000	61,991
3	35,001 - 55,000	64,520
4	55,001 - 95,000	69,580
5	95,001 - 200,000	74,851
6	200,001 - 400,000	79,068
7	400,001 - 1,000,000	84,339
8	1,000,001 or more	87,628

CLASSIFICATION AND COMPENSATION SCHEDULE  
 FOR CALENDAR YEAR 2016 FOR  
 COUNTY ENGINEERS WITHOUT A PRIVATE PRACTICE

Class	Population Range	Compensation
1	1 - 20,000	\$84,563
2	20,001 - 35,000	87,091
3	35,001 - 55,000	89,622
4	55,001 - 95,000	94,683
5	95,001 - 200,000	99,953
6	200,001 - 400,000	104,169
7	400,001 - 1,000,000	109,442
8	1,000,001 or more	112,725

CLASSIFICATION AND COMPENSATION SCHEDULE  
 FOR CALENDAR YEAR 2017 AND THEREAFTER FOR  
 COUNTY ENGINEERS WITH A PRIVATE PRACTICE

Class	Population Range	Compensation
1	1 - 55,000	\$67,746
2	55,001 - 95,000	73,059
3	95,001 - 200,000	78,594
4	200,001 - 400,000	83,022
5	400,001 - 1,000,000	88,556
6	1,000,001 or more	92,009

CLASSIFICATION AND COMPENSATION SCHEDULE  
 FOR CALENDAR YEAR 2017 AND THEREAFTER FOR  
 COUNTY ENGINEERS WITHOUT A PRIVATE PRACTICE

Class	Population Range	Compensation
1	1 - 55,000	\$94,103
2	55,001 - 95,000	99,417
3	5,001 - 200,000	104,950
4	200,001 - 400,000	109,378
5	400,001 - 1,000,000	114,914
6	1,000,001 or more	118,361

Such salary may be paid monthly out of the general county fund or out of the county's share of the fund derived from the receipts from motor vehicle licenses, as distributed by section 4501.04 of the Revised Code, and the county's share of the fund derived from the motor vehicle fuel tax, as distributed by section 5735.27 of the Revised Code, as the board of county commissioners directs, upon the warrant of the county auditor and shall be in lieu of all fees, costs, per diem or other allowances, and other perquisites, of whatever kind, which any engineer collects and receives. The engineer shall be the county tax map draftperson, but shall receive no additional compensation for performing the duties of that position. When the engineer performs service in connection with ditches or drainage works, the engineer shall charge and collect the per diem allowances or other fees provided by law and shall pay all of those allowances and fees, monthly, into the county treasury to the credit of the general county fund. The engineer shall pay into the county treasury all allowances and fees collected when the engineer performs services under sections 315.28 to 315.34 of the Revised Code.

(B) A county engineer may elect to engage or not to engage in the private practice of engineering or surveying before the commencement of each new term of office, and a county engineer who elects not to engage in the private practice of engineering or surveying may, for a period of six months after taking office, engage in the private practice of engineering or surveying for the purpose of concluding the affairs of private practice without any diminution of salary as provided in division (A) of this section and in section 325.18 of the Revised Code.

**Sec. 325.15.** (A) Each coroner shall be classified, for salary purposes, according to the population of the county. All coroners shall receive annual compensation in accordance with the following schedules and in accordance with section 325.18 of the Revised Code:

CLASSIFICATION AND COMPENSATION SCHEDULE

FOR CALENDAR YEAR 2001 FOR

CORONERS WITH A PRIVATE PRACTICE

Class	Population Range	Compensation
1	1 - 20,000	\$18,842
2	20,001 - 35,000	21,410
3	35,001 - 55,000	23,978
4	55,001 - 95,000	35,112

5	95,001 - 200,000	43,676
6	200,001 - 400,000	53,951
7	400,001 - 1,000,000	60,803
8	1,000,001 or more	64,451

CLASSIFICATION AND COMPENSATION SCHEDULE  
FOR CALENDAR YEAR 2001 FOR  
CORONERS WITHOUT A PRIVATE PRACTICE

Class	Population Range	Compensation
5	175,001 - 200,000	\$98,689
6	200,001 - 400,000	98,689
7	400,001 - 1,000,000	101,085
8	1,000,001 or more	103,480

CLASSIFICATION AND COMPENSATION SCHEDULE  
FOR CALENDAR YEAR 2016 FOR  
CORONERS WITH A PRIVATE PRACTICE

Class	Population Range	Compensation
1	1 - 20,000	\$23,195
2	20,001 - 35,000	26,357
3	35,001 - 55,000	29,518
4	55,001 - 95,000	43,223
5	95,001 - 200,000	53,769
6	200,001 - 400,000	66,418
7	400,001 - 1,000,000	74,851
8	1,000,001 or more	79,343

CLASSIFICATION AND COMPENSATION SCHEDULE

FOR CALENDAR YEAR 2016 FOR  
CORONERS WITHOUT A PRIVATE PRACTICE

Class	Population Range	Compensation
5	175,001 - 200,000	\$121,488
6	200,001 - 400,000	121,488
7	400,001 - 1,000,000	124,439
8	1,000,001 or more	127,389

CLASSIFICATION AND COMPENSATION SCHEDULE  
FOR CALENDAR YEAR 2017 AND THEREAFTER FOR  
CORONERS WITH A PRIVATE PRACTICE

Class	Population Range	Compensation
1	1 - 55,000	\$30,993
2	55,001 - 95,000	45,384
3	95,001 - 200,000	56,458
4	200,001 - 400,000	69,739
5	400,001 - 1,000,000	78,594
6	1,000,001 or more	83,310

CLASSIFICATION AND COMPENSATION SCHEDULE  
FOR CALENDAR YEAR 2017 AND THEREAFTER FOR  
CORONERS WITHOUT A PRIVATE PRACTICE

Class	Population Range	Compensation
3	175,001 - 200,000	\$127,563
4	200,001 - 400,000	127,563
5	400,001 - 1,000,000	130,661
6	1,000,001 or more	133,759

(B)(1) A coroner in a county with a population of one hundred seventy-five thousand one or more shall not engage in the private practice of medicine unless, before taking office, the coroner notifies the board of county commissioners of the intention to engage in that private practice. A coroner in such a county shall elect to engage or not to engage in the private practice of medicine before the commencement of each new term of office. A coroner in such a county who engages in the private practice of medicine, but who intends not to engage in the private practice of medicine during the coroner's next term of office, shall so notify the board of county commissioners as specified in this division. For a period of six months after taking office, a coroner who elects not to engage in the private practice of medicine may engage in the private practice of medicine, without any reduction of compensation as provided in division (A) of this section and in section 325.18 of the Revised Code, for the purpose of concluding the affairs of the coroner's private practice of medicine.

(2) A coroner in a county with a population of one hundred seventy-five thousand one or more who elects not to engage in the private practice of medicine under division (B)(1) of this section may, during the coroner's term of office, elect to engage in the private practice of medicine by notifying the board in writing of the intention to so engage. The notice shall state the date on which the coroner will commence the private practice of medicine and shall be given to the board at least thirty days before that date. On the date stated in the notice, the coroner's compensation shall be reduced as provided in division (A) of this section and in section 325.18 of the Revised Code for coroners with a private practice.

(C) Each coroner who is the coroner in a county with a population of one hundred seventy-five thousand one or more and who is without a private practice of medicine shall receive supplemental compensation of an additional fifty per cent of the annual compensation calculated under division (A) of this section and section 325.18 of the Revised Code in each calendar year in which the office of the coroner satisfies all of the following:

(1) The office operates as a regional forensic pathology examination referral center, and the operation generates coroner's laboratory fund income, for purposes of section 313.16 of the Revised Code, that is in excess of the fund's expenses and is sufficient to provide the supplemental compensation specified in division (C) of this section;

(2) The coroner is a forensic pathologist certified by the American board of pathology; and

(3) The coroner performs a minimum of seventy-five post mortem examinations annually.

(D) Each coroner who is the coroner in a county with a population of one hundred seventy-five thousand one or more and who is without a private practice of medicine and does not operate a regional forensic pathology examination referral center may, on approval of the board of county commissioners, receive supplemental compensation of up to an additional twenty-five per cent of the annual compensation calculated under division (A) of this section and section 325.18 of the Revised Code in each calendar year in which the coroner is a forensic pathologist certified by the American board of pathology and is performing the forensic examinations of the county.

**Sec. 339.06.** (A) The board of county hospital trustees, upon completion of construction or leasing and equipping of a county hospital, shall assume and continue the operation of the hospital.

(B) The board of county hospital trustees shall have the entire management and control of the county hospital. The board may in writing delegate its management and control of the county hospital to the administrator of the county hospital employed under section 339.07 of the Revised Code. The



board shall establish such rules for the hospital's government, management, control, and the admission of persons as are expedient.

(C) The board of county hospital trustees has control of the property of the county hospital, including management and disposal of surplus property other than real estate or an interest in real estate.

(D) With respect to the use of funds by the board of county hospital trustees and its accounting for the use of funds, all of the following apply:

(1) The board of county hospital trustees has control of all funds used in the county hospital's operation, including moneys received from the operation of the hospital, moneys appropriated for its operation by the board of county commissioners, and moneys resulting from special levies submitted by the board of county commissioners as provided for in section 5705.22 of the Revised Code.

(2) Of the funds used in the county hospital's operation, all or part of any amount determined not to be necessary to meet current demands on the hospital may be invested by the board of county hospital trustees or its designee in any classifications of securities and obligations eligible for deposit or investment of county moneys pursuant to section 135.35 of the Revised Code, subject to the approval of the board's written investment policy by the county investment advisory committee established pursuant to section 135.341 of the Revised Code. If a county hospital is based in a county that has adopted a charter under Section 3 of Article X, Ohio Constitution, such funds may be invested by the board of county hospital trustees as provided in this division or in an ordinance adopted by the legislative authority of the county, in either case subject to approval by the county investment advisory committee, or as provided in section 339.061 of the Revised Code.

(3) Annually, not later than sixty days before the end of the fiscal year used by the county hospital, the board of county hospital trustees shall submit its proposed budget for the ensuing fiscal year to the board of county commissioners for that board's review. The board of county commissioners shall review and approve the proposed budget by the first day of the fiscal year to which the budget applies. If the board of county commissioners has not approved the budget by the first day of the fiscal year to which the budget applies, the budget is deemed to have been approved by the board on the first day of that fiscal year.

(4) The board of county hospital trustees shall not expend funds received from taxes collected pursuant to any tax levied under section 5705.22 of the Revised Code or the amount appropriated to the county hospital by the board of county commissioners in the annual appropriation measure for the county until its budget for the applicable fiscal year is approved in accordance with division (C)(3) of this section. At any time the amount received from those sources differs from the amount shown in the approved budget, the board of county commissioners may require the board of county hospital trustees to revise the county hospital budget accordingly.

(5) Funds under the control of the board of county hospital trustees may be disbursed by the board, consistent with the approved budget, for the uses and purposes of the county hospital; for the replacement of necessary equipment; for the acquisition, leasing, or construction of permanent improvements to county hospital property; or for making a donation authorized by division (E) of this section. Each disbursement of funds shall be made on a voucher signed by signatories designated and approved by the board of county hospital trustees.

(6) The head of a board of county hospital trustees is not required to file an estimate of

contemplated revenue and expenditures for the ensuing fiscal year under section 5705.28 of the Revised Code unless the board of county commissioners levies a tax for the county hospital, or such a tax is proposed, or the board of county hospital trustees desires that the board of county commissioners make an appropriation to the county hospital for the ensuing fiscal year.

(7) All moneys appropriated by the board of county commissioners or from special levies by the board of county commissioners for the operation of the hospital, when collected shall be paid to the board of county hospital trustees on a warrant of the county auditor and approved by the board of county commissioners.

(8) The board of county hospital trustees shall provide for the conduct of an annual financial audit of the county hospital. Not later than thirty days after it receives the final report of an annual financial audit, the board shall file a copy of the report with the board of county commissioners.

(E) For the public purpose of improving the health, safety, and general welfare of the community, the board of county hospital trustees may donate to a nonprofit entity any of the following:

(1) Moneys and other financial assets determined not to be necessary to meet current demands on the hospital;

(2) Surplus hospital property, including supplies, equipment, office facilities, and other property that is not real estate or an interest in real estate;

(3) Services rendered by the hospital.

(F)(1) For purposes of division (F)(2) of this section, "bank" has the same meaning as in section 1101.01 of the Revised Code.

(2) The board of county hospital trustees may enter into a contract for a secured line of credit with a bank if the contract meets all of the following requirements:

(a) The term of the contract does not exceed one year, except that the contract may provide for the automatic renewal of the contract for up to four additional one-year periods if, on the date of automatic renewal, the aggregate outstanding draws remaining unpaid under the secured line of credit do not exceed fifty per cent of the maximum amount that can be drawn under the secured line of credit.

(b) The contract provides that the bank shall not commence a civil action against the board of county commissioners, any member of the board, or the county to recover the principal, interest, or any charges or other amounts that remain outstanding on the secured line of credit at the time of any default by the board of county hospital trustees.

(c) The contract provides that no assets other than those of the county hospital can be used to secure the line of credit.

(d) The terms and conditions of the contract comply with all state and federal statutes and rules governing the extension of a secured line of credit.

(3) Any obligation incurred by a board of county hospital trustees under division (F)(2) of this section is an obligation of that board only and not a general obligation of the board of county commissioners or the county within the meaning of division (Q) of section 133.01 of the Revised Code.

(4) Notwithstanding anything to the contrary in the Revised Code, the board of county hospital trustees may secure the line of credit authorized under division (F)(2) of this section by the

grant of a security interest in any part or all of its tangible personal property and intangible personal property, including its deposit accounts, accounts receivable, or both.

(5) No board of county hospital trustees shall at any time have more than one secured line of credit under division (F)(2) of this section.

(G) The board of county hospital trustees shall establish a schedule of charges for all services and treatment rendered by the county hospital. It may provide for the free treatment in the hospital of soldiers, sailors, and marines of the county, under such conditions and rules as it prescribes.

(H) The board of county hospital trustees may designate the amounts and forms of insurance protection to be provided, and the board of county commissioners shall assist in obtaining such protection. The expense of providing the protection shall be paid from hospital operating funds.

(I) The board of county hospital trustees may authorize a county hospital and each of its units, hospital board members, designated hospital employees, and medical staff members to be a member of and maintain membership in any local, state, or national group or association organized and operated for the promotion of the public health and welfare or advancement of the efficiency of hospital administration and in connection therewith to use tax funds for the payment of dues and fees and related expenses but nothing in this section prohibits the board from using receipts from hospital operation, other than tax funds, for the payment of such dues and fees.

(J) The following apply to the board of county hospital trustees in relation to its employees and the employees of the county hospital:

(1) The board shall adopt the wage and salary schedule for employees.

(2) The board may employ the hospital's administrator pursuant to section 339.07 of the Revised Code, and the administrator may employ individuals for the hospital in accordance with that section.

(3) The board may employ assistants as necessary to perform its clerical work, superintend properly the construction of the county hospital, and pay the hospital's expenses. Such employees may be paid from funds provided for the county hospital.

(4) The board may hire, by contract or as salaried employees, such management consultants, accountants, attorneys, engineers, architects, construction managers, and other professional advisors as it determines are necessary and desirable to assist in the management of the programs and operation of the county hospital. Such professional advisors may be paid from county hospital operating funds.

(5) Notwithstanding section 325.19 of the Revised Code, the board may grant to employees any fringe benefits the board determines to be customary and usual in the nonprofit hospital field in its community, including, but not limited to:

(a) Additional vacation leave with full pay for full-time employees, including full-time hourly rate employees, after service of one year;

(b) Vacation leave and holiday pay for part-time employees on a pro rata basis;

(c) Leave with full pay due to death in the employee's immediate family, which shall not be deducted from the employee's accumulated sick leave;

(d) Premium pay for working on holidays listed in section 325.19 of the Revised Code;

(e) Moving expenses for new employees;

(f) Discounts on hospital supplies and services.

(6) The board may provide holiday leave by observing Martin Luther King day, Washington-Lincoln day, Columbus day, and Veterans' day on days other than those specified in section 1.14 of the Revised Code.

(7) The board may grant to employees the insurance benefits authorized by section 339.16 of the Revised Code.

(8) Notwithstanding section 325.19 of the Revised Code, the board may grant to employees, including hourly rate employees, such personal holidays as the board determines to be customary and usual in the hospital field in its community.

(9) The board may provide employee recognition awards and hold employee recognition dinners.

(10) The board may grant to employees the recruitment and retention benefits specified under division (K) of this section.

(K) Notwithstanding sections 325.191 and 325.20 of the Revised Code, the board of county hospital trustees may provide, without the prior authorization of the board of county commissioners, scholarships for education in the health care professions, tuition reimbursement, and other staff development programs to enhance the skills of health care professionals for the purpose of recruiting or retaining qualified employees.

The board of county hospital trustees may pay reasonable expenses for recruiting or retaining physicians and other appropriate health care practitioners.

(L) The board of county hospital trustees may retain counsel and institute legal action in its own name for the collection of delinquent accounts. The board may also employ any other lawful means for the collection of delinquent accounts.

**Sec. 339.061.**

**Sec. 340.03.** (A) Subject to rules issued by the director of mental health and addiction services after consultation with relevant constituencies as required by division (A)(10) of section 5119.21 of the Revised Code, each board of alcohol, drug addiction, and mental health services shall:

(1) Serve as the community addiction and mental health planning agency for the county or counties under its jurisdiction, and in so doing it shall:

(a) Evaluate the need for facility services, addiction services, mental health services, and recovery supports;

(b) In cooperation with other local and regional planning and funding bodies and with relevant ethnic organizations, evaluate strengths and challenges and set priorities for addiction services, mental health services, and recovery supports. A board shall include treatment and prevention services when setting priorities for addiction services and mental health services. When a board sets priorities for addiction services, the board shall consult with the county commissioners of the counties in the board's service district regarding the services described in section 340.15 of the Revised Code and shall give priority to those services, except that those services shall not have a priority over services provided to pregnant women under programs developed in relation to the mandate established in section 5119.17 of the Revised Code.

(c) In accordance with guidelines issued by the director of mental health and addiction services under division (F) of section 5119.22 of the Revised Code, annually develop and submit to the department of mental health and addiction services a community addiction and mental health plan

that addresses both of the following:

(i) The needs of all residents of the district currently receiving inpatient services in state-operated hospitals, the needs of other populations as required by state or federal law or programs, and the needs of all children subject to a determination made pursuant to section 121.38 of the Revised Code;

(ii) The department's priorities for facility services, addiction services, mental health services, and recovery supports during the period for which the plan will be in effect. The department shall inform all of the boards of the department's priorities in a timely manner that enables the boards to know the department's priorities before the boards develop and submit the plans.

In alcohol, drug addiction, and mental health service districts that have separate alcohol and drug addiction services and community mental health boards, the alcohol and drug addiction services board shall submit a community addiction plan and the community mental health board shall submit a community mental health plan. Each board shall consult with its counterpart in developing its plan and address the interaction between the local addiction and mental health systems and populations with regard to needs and priorities in developing its plan.

The department shall approve or disapprove the plan, in whole or in part, in accordance with division (G) of section 5119.22 of the Revised Code. Eligibility for state and federal funding shall be contingent upon an approved plan or relevant part of a plan.

If a board determines that it is necessary to amend an approved plan, the board shall submit a proposed amendment to the director. The director shall approve or disapprove all or part of the amendment in accordance with division (H) of section 5119.22 of the Revised Code.

The board shall operate in accordance with the plan approved by the department.

(d) Promote, arrange, and implement working agreements with social agencies, both public and private, and with judicial agencies.

(2) Investigate, or request another agency to investigate, any complaint alleging abuse or neglect of any person receiving addiction services, mental health services, or recovery supports from a community addiction services provider or community mental health services provider or alleging abuse or neglect of a resident receiving addiction services or with mental illness or severe mental disability residing in a residential facility licensed under section 5119.34 of the Revised Code. If the investigation substantiates the charge of abuse or neglect, the board shall take whatever action it determines is necessary to correct the situation, including notification of the appropriate authorities. Upon request, the board shall provide information about such investigations to the department.

(3) For the purpose of section 5119.36 of the Revised Code, cooperate with the director of mental health and addiction services in visiting and evaluating whether the certifiable services and supports of a community addiction services provider or community mental health services provider satisfy the certification standards established by rules adopted under that section;

(4) In accordance with criteria established under division (D) of section 5119.22 of the Revised Code, conduct program audits that review and evaluate the quality, effectiveness, and efficiency of addiction services, mental health services, and recovery supports provided by community addiction services providers and community mental health services providers under contract with the board and submit the board's findings and recommendations to the department of mental health and addiction services;

(5) In accordance with section 5119.34 of the Revised Code, review an application for a residential facility license and provide to the department of mental health and addiction services any information about the applicant or facility that the board would like the department to consider in reviewing the application;

(6) Audit, in accordance with rules adopted by the auditor of state pursuant to section 117.20 of the Revised Code, at least annually all programs, addiction services, mental health services, and recovery supports provided under contract with the board. In so doing, the board may contract for or employ the services of private auditors. A copy of the fiscal audit report shall be provided to the director of mental health and addiction services, the auditor of state, and the county auditor of each county in the board's district.

(7) Recruit and promote local financial support for addiction services, mental health services, and recovery supports from private and public sources;

(8) In accordance with guidelines issued by the department as necessary to comply with state and federal laws pertaining to financial assistance, approve fee schedules and related charges or adopt a unit cost schedule or other methods of payment for addiction services, mental health services, and recovery supports provided by community addiction services providers and community mental health services providers that have contracted with the board under section 340.036 of the Revised Code;

(9) Submit to the director and the county commissioners of the county or counties served by the board, and make available to the public, an annual report of the addiction services, mental health services, and recovery supports under the jurisdiction of the board, including a fiscal accounting;

(10) Establish a method for evaluating referrals for court-ordered treatment and affidavits filed pursuant to section 5122.11 of the Revised Code in order to assist the probate division of the court of common pleas in determining whether there is probable cause that a respondent is subject to court-ordered treatment and whether alternatives to hospitalization are available and appropriate;

(11) Designate the treatment services, provider, facility, or other placement for each person involuntarily committed to the board pursuant to Chapter 5122. of the Revised Code. The board shall provide the least restrictive and most appropriate alternative that is available for any person involuntarily committed to it and shall assure that the list of addiction services, mental health services, and recovery supports submitted and approved in accordance with division (B) of section 340.08 of the Revised Code are available to severely mentally disabled persons residing within its service district. The board shall establish the procedure for authorizing payment for the services and supports, which may include prior authorization in appropriate circumstances. In accordance with section 340.037 of the Revised Code, the board may provide addiction services and mental health services directly to a severely mentally disabled person when life or safety is endangered and when no community addiction services provider or community mental health services provider is available to provide the service.

(12) Ensure that housing built, subsidized, renovated, rented, owned, or leased by the board or a community addiction services provider or community mental health services provider has been approved as meeting minimum fire safety standards and that persons residing in the housing have access to appropriate and necessary services, including culturally relevant services, from a community addiction services provider or community mental health services provider. This division

does not apply to residential facilities licensed pursuant to section 5119.34 of the Revised Code.

(13) Establish a mechanism for obtaining advice and involvement of persons receiving addiction services, mental health services, or recovery supports on matters pertaining to services and supports in the alcohol, drug addiction, and mental health service district;

(14) Perform the duties required by rules adopted under section 5119.22 of the Revised Code regarding referrals by the board or community mental health services providers under contract with the board of individuals with mental illness or severe mental disability to class two residential facilities licensed under section 5119.34 of the Revised Code and effective arrangements for ongoing mental health services for the individuals. The board is accountable in the manner specified in the rules for ensuring that the ongoing mental health services are effectively arranged for the individuals.

(B) Each board of alcohol, drug addiction, and mental health services shall establish such rules, operating procedures, standards, and bylaws, and perform such other duties as may be necessary or proper to carry out the purposes of this chapter.

(C) A board of alcohol, drug addiction, and mental health services may receive by gift, grant, devise, or bequest any moneys, lands, or property for the benefit of the purposes for which the board is established, and may hold and apply it according to the terms of the gift, grant, or bequest. All money received, including accrued interest, by gift, grant, or bequest shall be deposited in the treasury of the county, the treasurer of which is custodian of the alcohol, drug addiction, and mental health services funds to the credit of the board and shall be available for use by the board for purposes stated by the donor or grantor.

(D) No member or employee of a board of alcohol, drug addiction, and mental health services shall be liable for injury or damages caused by any action or inaction taken within the scope of the member's official duties or the employee's employment, whether or not such action or inaction is expressly authorized by this section or any other section of the Revised Code, unless such action or inaction constitutes willful or wanton misconduct. Chapter 2744. of the Revised Code applies to any action or inaction by a member or employee of a board taken within the scope of the member's official duties or employee's employment. For the purposes of this division, the conduct of a member or employee shall not be considered willful or wanton misconduct if the member or employee acted in good faith and in a manner that the member or employee reasonably believed was in or was not opposed to the best interests of the board and, with respect to any criminal action or proceeding, had no reasonable cause to believe the conduct was unlawful.

(E) The meetings held by any committee established by a board of alcohol, drug addiction, and mental health services shall be considered to be meetings of a public body subject to section 121.22 of the Revised Code.

(F)(1) A board of alcohol, drug addiction, and mental health services may establish a rule, operating procedure, standard, or bylaw to allow the executive director of the board to execute both of the following types of contracts valued at twenty-five thousand dollars or less, as determined by the board, on behalf of the board without the board's prior approval:

- (a) Emergency contracts for clinical services or recovery support services;
- (b) Standard service contracts pertaining to the board's operations.

(2) If a board establishes a rule, operating procedure, standard, or bylaw under division (F)(1) of this section, both of the following shall be the case:

(a) The board shall define the scope of contracts described in divisions (F)(1)(a) and (b) of this section in that rule, operating procedure, standard, or bylaw.

(b) The board shall disclose the existence of a contract executed pursuant to the rule, operating procedure, standard, or bylaw at the first board meeting that occurs after the contract was executed and ensure that a record of that disclosure is included in the written minutes of that meeting.

**Sec. 340.034.** All of the following apply to the recovery housing required by section 340.033 of the Revised Code to be part of included opioid and co-occurring drug addiction services and recovery supports:

(A) The recovery housing shall not be subject to residential facility licensure by the department of mental health and addiction services under section 5119.34 of the Revised Code.

(B) The recovery housing shall not be subject to certification as a recovery support under section 5119.36 of the Revised Code.

(C) The recovery housing shall not be owned and operated by a board of alcohol, drug addiction, and mental health services unless any of the following applies:

(1) The board owns and operates the recovery housing on July 1, 2017.

(2) The board utilizes local funds in the development, purchase, or operation of the recovery housing.

(3) The board determines that there is a need for the board to assume the ownership and operation of the recovery housing such as when an existing owner and operator of the recovery housing goes out of business, and the board considers the assumption of ownership and operation of the recovery housing to be in the best interest of the community.

(D) The recovery housing shall have protocols for all of the following:

(1) Administrative oversight;

(2) Quality standards;

(3) Policies and procedures, including house rules, for its residents to which the residents must agree to adhere.

(E) Family members of the recovery housing's residents may reside in the recovery housing to the extent the recovery housing's protocols permit.

(F) The recovery housing shall not limit a resident's duration of stay to an arbitrary or fixed amount of time. Instead, each resident's duration of stay shall be determined by the resident's needs, progress, and willingness to abide by the recovery housing's protocols, in collaboration with the recovery housing's owner and operator, and, if appropriate, in consultation and integration with a community addiction services provider.

(G) The recovery housing may permit its residents to receive medication-assisted treatment.

(H) A recovery housing resident may receive addiction services that are certified by the department of mental health and addiction services under section 5119.36 of the Revised Code.

**Sec. 340.035.**

**Sec. 340.04.** Each board of alcohol, drug addiction, and mental health services shall employ a qualified mental health or addiction services professional with experience in administration or a professional administrator with experience in mental health services or addiction services to serve as executive director of the board and shall prescribe the director's duties.

The board shall fix the compensation of the executive director. In addition to such



compensation, the director shall be reimbursed for actual and necessary expenses incurred in the performance of the director's official duties. The board, by majority vote of the full membership, may remove the director for cause, upon written charges, after an opportunity has been afforded the director for a hearing before the board on request.

The board may delegate to its executive director the authority to act in its behalf in the performance of its administrative duties.

As used in this section, "mental health professional" and "addiction services professional" mean an individual who is qualified to work with mentally ill persons or persons receiving addiction services, pursuant to standards established by the director of mental health and addiction services under Chapter 5119. of the Revised Code.

**Sec. 340.05.** If a community addiction services provider or community mental health services provider receives a complaint alleging abuse or neglect of an individual with mental illness or severe mental disability, or an individual receiving addiction services, who resides in a residential facility licensed under section 5119.34 of the Revised Code, the provider shall report the complaint to the board of alcohol, drug addiction, and mental health services serving the alcohol, drug addiction, and mental health service district in which the residential facility is located. A board of alcohol, drug addiction, and mental health services that receives such a report from a community addiction services provider or community mental health services provider of such a complaint shall report the complaint to the director of mental health and addiction services for the purpose of the director conducting an investigation under section 5119.34 of the Revised Code. The board may enter the facility with or without the director and, if the health and safety of a resident is in immediate danger, take any necessary action to protect the resident. The board's action shall not violate any resident's rights specified in rules adopted by the department of mental health and addiction services under section 5119.34 of the Revised Code. The board shall immediately report to the director regarding the board's actions under this section.

**Sec. 340.07.** The board of county commissioners of any county participating in an alcohol, drug addiction, and mental health service district or joint-county district, upon receipt from the board of alcohol, drug addiction, and mental health services of a resolution so requesting, may appropriate money to such board for the operation, lease, acquisition, construction, renovation, and maintenance of community addiction services providers, community mental health services providers, and facilities in accordance with the budget required by section 340.08 of the Revised Code and approved by the department of mental health and addiction services pursuant to section 5119.22 of the Revised Code.

**Sec. 340.12.** As used in this section, "disability" has the same meaning as in section 4112.01 of the Revised Code.

No board of alcohol, drug addiction, and mental health services or any community addiction services provider or community mental health services provider under contract with such a board shall discriminate in the provision of addiction services, mental health services, or recovery supports under its authority, in employment, or under a contract on the basis of race, color, religion, ancestry, military status, sex, age, national origin, or disability.

Each board, community addiction services provider, and community mental health services provider shall have a written affirmative action program. The affirmative action program shall

include goals for the employment and effective utilization of, including contracts with, members of economically disadvantaged groups as defined in division (E)(1) of section 122.71 of the Revised Code in percentages reflecting as nearly as possible the composition of the alcohol, drug addiction, and mental health service district served by the board. Each board and provider shall file a description of the affirmative action program and a progress report on its implementation with the department of mental health and addiction services.

**Sec. 340.15.** (A) A public children services agency that identifies a child by a risk assessment conducted pursuant to section 5153.16 of the Revised Code as being at imminent risk of being abused or neglected because of an addiction of a parent, guardian, or custodian of the child to a drug of abuse or alcohol shall refer the child's addicted parent, guardian, or custodian and, if the agency determines that the child needs alcohol and drug addiction services, the child to a community addiction services provider. A public children services agency that is sent a court order issued pursuant to division (B) of section 2151.3514 of the Revised Code shall refer the addicted parent or other caregiver of the child identified in the court order to a community addiction services provider. On receipt of a referral under this division and to the extent funding identified under division (A)(2) of section 340.08 of the Revised Code is available, the provider shall provide the following services to the addicted parent, guardian, custodian, or caregiver and child in need of addiction services:

(1) If it is determined pursuant to an initial screening to be needed, assessment and appropriate treatment;

(2) Documentation of progress in accordance with a treatment plan developed for the addicted parent, guardian, custodian, caregiver, or child;

(3) If the referral is based on a court order issued pursuant to division (B) of section 2151.3514 of the Revised Code and the order requires the specified parent or other caregiver of the child to submit to alcohol or other drug testing during, after, or both during and after, treatment, testing in accordance with the court order.

(B) The services described in division (A) of this section shall have a priority as provided in the community addiction and mental health plan and budget established pursuant to sections 340.03 and 340.08 of the Revised Code. Once a referral has been received pursuant to this section, the public children services agency and the community addiction services provider shall, in accordance with 42 C.F.R. Part 2, share with each other any information concerning the persons and services described in that division that the agency and provider determine are necessary to share. If the referral is based on a court order issued pursuant to division (B) of section 2151.3514 of the Revised Code, the results and recommendations of the community addiction services provider also shall be provided and used as described in division (D) of that section. Information obtained or maintained by the agency or provider pursuant to this section that could enable the identification of any person described in division (A) of this section is not a public record subject to inspection or copying under section 149.43 of the Revised Code.

**Sec. 341.34.** (A) As used in this section, "building or structure" includes, but is not limited to, a modular unit, building, or structure and a movable unit, building, or structure.

(B)(1) The board of county commissioners of any county, by resolution, may dedicate and permit the use, as a minimum security jail, of any vacant or abandoned public building or structure owned by the county that has not been dedicated to or is not then in use for any county or other

public purpose, or any building or structure rented or leased by the county. The board of county commissioners of any county, by resolution, also may dedicate and permit the use, as a minimum security jail, of any building or structure purchased by or constructed by or for the county. Subject to divisions (B)(3) and (C) of this section, upon the effective date of such a resolution, the specified building or structure shall be used, in accordance with this section, for the confinement of persons who meet one of the following conditions:

(a) The person is sentenced to a term of imprisonment for a traffic violation or a misdemeanor or is sentenced to a residential sanction in the jail for a felony of the fourth or fifth degree pursuant to sections 2929.11 to 2929.19 of the Revised Code, and the jail administrator or the jail administrator's designee has classified the person as a minimal security risk. In determining the person's classification under this division, the administrator or designee shall consider all relevant factors, including, but not limited to, the person's escape risk and propensity for assaultive or violent behavior, based upon the person's prior and current behavior.

(b) The person is charged with a traffic violation, a misdemeanor, or a felony of the fourth or fifth degree and has had bail set and has not been released on bail and is confined in a county or municipal jail pending trial, and the jail administrator or the jail administrator's designee has classified the person as a minimal security risk. In determining the person's classification under this division, the administrator or designee shall consider all relevant factors, including, but not limited to, the person's escape risk and propensity for assaultive or violent behavior, based upon the person's prior and current behavior. Nothing in this division authorizes the operation or management of a minimum security jail by a private entity.

(c) The person is an inmate transferred by order of a judge of the sentencing court upon the request of the sheriff, administrator, jailer, or other person responsible for operating the jail other than a contractor as defined in section 9.06 of the Revised Code, who is named in the request as being suitable for confinement in a minimum security facility.

(2) The board of county commissioners of any county, by resolution, may affiliate with one or more adjacent counties, or with one or more municipal corporations located within the county or within an adjacent county, and dedicate and permit the use, as a minimum security jail, of any vacant or abandoned public building or structure owned by any of the affiliating counties or municipal corporations that has not been dedicated to or is not then in use for any public purpose, or any building or structure rented or leased by any of the affiliating counties or municipal corporations. The board of county commissioners of any county, by resolution, also may affiliate with one or more adjacent counties or with one or more municipal corporations located within the county or within an adjacent county and dedicate and permit the use, as a minimum security jail, of any building or structure purchased by or constructed by or for any of the affiliating counties or municipal corporations. Any counties and municipal corporations that affiliate for purposes of this division shall enter into an agreement that establishes the responsibilities for the operation and for the cost of operation of the minimum security jail. Subject to divisions (B)(3) and (C) of this section, upon the effective date of a resolution adopted under this division, the specified building or structure shall be used, in accordance with this section, for the confinement of persons who meet one of the following conditions:

(a) The person is sentenced to a term of imprisonment for a traffic violation, a misdemeanor,

or a violation of an ordinance of any municipal corporation, or is sentenced to a residential sanction in the jail for a felony of the fourth or fifth degree pursuant to sections 2929.11 to 2929.19 of the Revised Code, and the jail administrator or the jail administrator's designee has classified the person as a minimal security risk. In determining the person's classification under this division, the administrator or designee shall consider all relevant factors, including, but not limited to, the person's escape risk and propensity for assaultive or violent behavior, based upon the person's prior and current behavior.

(b) The person is charged with a traffic violation, a misdemeanor, or a felony of the fourth or fifth degree and has had bail set and has not been released on bail and is confined in a county jail pending trial, and the jail administrator or the jail administrator's designee has classified the person as a minimal security risk. In determining the person's classification under this division, the administrator or designee shall consider all relevant factors, including, but not limited to, the person's escape risk and propensity for assaultive or violent behavior, based upon the person's prior and current behavior. Nothing in this division authorizes the operation or management of a minimum security jail by a private entity.

(c) The person is an inmate transferred by order of a judge of the sentencing court upon the request of the sheriff, administrator, jailer, or other person responsible for operating the jail other than a contractor as defined in section 9.06 of the Revised Code, who is named in the request as being suitable for confinement in a minimum security facility.

(3) No person shall be confined in a building or structure dedicated as a minimum security jail under division (B)(1) or (2) of this section unless the judge who sentenced the person to the term of imprisonment for the traffic violation or the misdemeanor specifies that the term of imprisonment is to be served in that jail, and division (B)(1) or (2) of this section permits the confinement of the person in that jail or unless the judge who sentenced the person to the residential sanction for the felony specifies that the residential sanction is to be served in a jail, and division (B)(1) or (2) of this section permits the confinement of the person in that jail. If a rented or leased building or structure is so dedicated, the building or structure may be used as a minimum security jail only during the period that it is rented or leased by the county or by an affiliated county or municipal corporation. If a person convicted of a misdemeanor is confined to a building or structure dedicated as a minimum security jail under division (B)(1) or (2) of this section and the sheriff, administrator, jailer, or other person responsible for operating the jail other than a contractor as defined in section 9.06 of the Revised Code determines that it would be more appropriate for the person so confined to be confined in another jail or workhouse facility, the sheriff, administrator, jailer, or other person may transfer the person so confined to a more appropriate jail or workhouse facility.

(C) All of the following apply to a building or structure that is dedicated pursuant to division (B)(1) or (2) of this section for use as a minimum security jail:

(1) To the extent that the use of the building or structure as a minimum security jail requires a variance from any county, municipal corporation, or township zoning regulations or ordinances, the variance shall be granted.

(2) Except as provided in this section, the building or structure shall not be used to confine any person unless it is in substantial compliance with any applicable housing, fire prevention, sanitation, health, and safety codes, regulations, or standards.

(3) Unless such satisfaction or compliance is required under the standards described in division (C)(4) of this section, and notwithstanding any other provision of state or local law to the contrary, the building or structure need not satisfy or comply with any state or local building standard or code in order to be used to confine a person for the purposes specified in division (B) of this section.

(4) The building or structure shall not be used to confine any person unless it is in compliance with all minimum standards and minimum renovation, modification, and construction criteria for minimum security jails that have been proposed by the department of rehabilitation and correction, through its bureau of adult detention, under section 5120.10 of the Revised Code.

(5) The building or structure need not be renovated or modified into a secure detention facility in order to be used solely to confine a person for the purposes specified in divisions (B)(1)(a) or (b) and (B)(2)(a) or (b) of this section.

(6) The building or structure shall be used, equipped, furnished, and staffed in the manner necessary to provide adequate and suitable living, sleeping, food service or preparation, drinking, bathing and toilet, sanitation, and other necessary facilities, furnishings, and equipment.

(D) Except as provided in this section, a minimum security jail dedicated and used under this section shall be considered to be part of the jail, workhouse, or other correctional facilities of the county or the affiliated counties and municipal corporations for all purposes under the law. All persons confined in such a minimum security jail shall be and shall remain, in all respects, under the control of the county authority that has responsibility for the management and operation of the jail, workhouse, or other correctional facilities of the county or, if it is operated by any affiliation of counties or municipal corporations, under the control of the specified county or municipal corporation with that authority, provided that, if the person was convicted of a felony and is serving a residential sanction in the facility, all provisions of law that pertain to persons convicted of a felony that would not by their nature clearly be inapplicable apply regarding the person. A minimum security jail dedicated and used under this section shall be managed and maintained in accordance with policies and procedures adopted by the board of county commissioners or the affiliated counties and municipal corporations governing the safe and healthful operation of the jail, the confinement and supervision of the persons sentenced to it, and their participation in work release or similar rehabilitation programs. In addition to other rules of conduct and discipline, the rights of ingress and egress of persons confined in a minimum security jail dedicated and used under this section shall be subject to reasonable restrictions. Every person confined in a minimum security jail dedicated and used under this section shall be given verbal and written notification, at the time of the person's admission to the jail, that purposely leaving, or purposely failing to return to, the jail without proper authority or permission constitutes the felony offense of escape.

(E) If a person who has been convicted of or pleaded guilty to an offense is sentenced to a term of imprisonment or a residential sanction in a minimum security jail as described in division (B) (1)(a) or (B)(2)(a) of this section, or if a person is an inmate transferred to a minimum security jail by order of a judge of the sentencing court as described in division (B)(1)(c) or (B)(2)(c) of this section, at the time of reception and at other times the person in charge of the operation of the jail determines to be appropriate, the sheriff or other person in charge of the operation of the jail may cause the convicted offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including but

not limited to hepatitis A, B, and C, and other contagious diseases. The person in charge of the operation of the jail may cause a convicted offender in the jail who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.

**Sec. 343.01.** (A) In order to comply with division (B) of section 3734.52 of the Revised Code, the board of county commissioners of each county shall do one of the following:

(1) Establish, by resolution, and maintain a county solid waste management district under this chapter that consists of all the incorporated and unincorporated territory within the county except as otherwise provided in division (A) of this section;

(2) With the boards of county commissioners of one or more other counties establish, by agreement, and maintain a joint solid waste management district under this chapter that consists of all the incorporated and unincorporated territory within the counties forming the joint district except as otherwise provided in division (A) of this section.

If a municipal corporation is located in more than one solid waste management district, the entire municipal corporation shall be considered to be included in and shall be under the jurisdiction of the district in which a majority of the population of the municipal corporation resides.

A county and joint district established to comply with division (B) of section 3734.52 of the Revised Code shall have a population of not less than one hundred twenty thousand unless, in the instance of a county district, the board of county commissioners has obtained an exemption from that requirement under division (C)(1) or (2) of that section. Each joint district established to comply with an order issued under division (D) of that section shall have a population of at least one hundred twenty thousand.

(B) The boards of county commissioners of the counties establishing a joint district constitute, collectively, the board of directors of the joint district, except that if a county with a form of legislative authority other than a board of county commissioners participates, it shall be represented on the board of directors by three persons appointed by the legislative authority.

The agreement to establish and maintain a joint district shall be ratified by resolution of the board of county commissioners of each participating county. Upon ratification, the board of directors shall take control of and manage the joint district subject to this chapter, except that, in the case of a joint district formed pursuant to division (C), (D), or (E) of section 343.012 of the Revised Code, the board of directors shall take control of and manage the district when the formation of the district becomes final under the applicable division. A majority of the board of directors constitutes a quorum, and a majority vote is required for the board to act.

A county participating in a joint district may contribute lands or rights or interests therein, money, other personal property or rights or interests therein, or services to the district. The agreement shall specify any contributions of participating counties and the rights of the participating counties in lands or personal property, or rights or interests therein, contributed to or otherwise acquired by the joint district. The agreement may be amended or added to by a majority vote of the board of directors, but no amendment or addition shall divest a participating county of any right or interest in lands or personal property without its consent.

The board of directors may appoint and fix the compensation of employees of, accept gifts, devises, and bequests for, and take other actions necessary to control and manage the joint district.

Employees of the district shall be considered county employees for the purposes of Chapter 124. of the Revised Code and other provisions of state law applicable to employees. Instead of or in addition to appointing employees of the district, the board of directors may agree to use employees of one or more of the participating counties in the service of the joint district and to share in their compensation in any manner that may be agreed upon.

The board of directors shall do one of the following:

(1) Designate the county auditor, including any other official acting in a capacity similar to a county auditor under a county charter, of a county participating in the joint district as the fiscal officer of the district, and the county treasurer, or other official acting in a capacity similar to a county treasurer under a county charter, of that county as the treasurer of the district. The designated county officials shall perform any applicable duties for the district as each typically performs for the county of which the individual is an official, except as otherwise may be provided in any bylaws or resolutions adopted by the board of directors. The board of directors may pay to that county any amount agreed upon by the board of directors and the board of county commissioners of that county to reimburse that county for the cost properly allocable to the service of its officials as fiscal officer and treasurer of the joint district.

(2) Appoint one individual who is neither a county auditor nor a county treasurer, and who may be an employee of the district, to serve as both the treasurer of the district and its fiscal officer. That individual shall act as custodian of the funds of the board and the district and shall maintain all accounts of the district. Any reference in this chapter or Chapter 3734. of the Revised Code to a county auditor or county treasurer serving as fiscal officer of a district or custodian of any funds of a board or district is deemed to refer to an individual appointed under division (B)(2) of this section.

The fiscal officer of a district shall establish a general fund and any other necessary funds for the district.

(C) A board of county commissioners of a county district or board of directors of a joint district may acquire, by purchase or lease, construct, improve, enlarge, replace, maintain, and operate such solid waste collection systems within their respective districts and such solid waste facilities within or outside their respective districts as are necessary for the protection of the public health. A board of county commissioners may acquire within its county real property or any estate, interest, or right therein, by appropriation or any other method, for use by a county or joint district in connection with such facilities. Appropriation proceedings shall be conducted in accordance with sections 163.01 to 163.22 of the Revised Code.

(D) The sanitary engineer or sanitary engineering department of a county maintaining a district and any sanitary engineer or sanitary engineering department of a county in a joint district, as determined by the board of directors, in addition to other duties assigned to that engineer or department, shall assist the board of county commissioners or directors in the performance of their duties under this chapter and sections 3734.52 to 3734.575 of the Revised Code and shall be charged with any other duties and services in relation thereto that the board prescribes. A board may employ registered professional engineers to assist the sanitary engineer in those duties and also may employ financial advisers and any other professional services it considers necessary to assist it in the construction, financing, and maintenance of solid waste collection or other solid waste facilities. Such contracts of employment shall not require the certificate provided in section 5705.41 of the

Revised Code. Payment for such services may be made from the general fund or any other fund legally available for that use at times that are agreed upon or as determined by the board of county commissioners or directors, and the funds may be reimbursed from the proceeds of bonds or notes issued to pay the cost of any improvement to which the services related.

(E)(1) The prosecuting attorney of the county shall serve as the legal advisor of a county district and shall provide such services to the board of county commissioners of the district as are required or authorized to be provided to other county boards under Chapter 309. of the Revised Code, except that, if the board considers it to be necessary or appropriate, the board, on its own initiative, may employ an attorney or other legal counsel on an annual basis to serve as the legal advisor of the district in place of the prosecuting attorney. When the prosecuting attorney is serving as the district's legal advisor and the board considers it to be necessary or appropriate, the board, on its own initiative, may employ an attorney or other legal counsel to represent or advise the board regarding a particular matter in place of the prosecuting attorney. The employment of an attorney or other legal counsel on an annual basis or in a particular matter is not subject to or governed by sections 305.14 and 309.09 of the Revised Code.

Notwithstanding the employment of an attorney or other legal counsel on an annual basis to serve as the district's legal advisor, the board may require written opinions or instructions from the prosecuting attorney under section 309.09 of the Revised Code in matters connected with its official duties as though the prosecuting attorney were serving as the legal advisor of the district.

(2) The board of directors of a joint district may designate the prosecuting attorney of one of the counties forming the district to serve as the legal advisor of the district. When so designated, the prosecuting attorney shall provide such services to the joint district as are required or authorized to be provided to county boards under Chapter 309. of the Revised Code. The board of directors may pay to that county any amount agreed upon by the board of directors and the board of county commissioners of that county to reimburse that county for the cost properly allocable to the services of its prosecuting attorney as the legal advisor of the joint district. When that prosecuting attorney is so serving and the board considers it to be necessary or appropriate, the board, on its own initiative, may employ an attorney or other legal counsel to represent or advise the board regarding a particular matter in place of the prosecuting attorney.

Instead of designating the prosecuting attorney of one of the counties forming the district to be the legal advisor of the district, the board of directors may employ on an annual basis an attorney or other legal counsel to serve as the district's legal advisor. Notwithstanding the employment of an attorney or other legal counsel as the district's legal advisor, the board of directors may require written opinions or instructions from the prosecuting attorney of any of the counties forming the district in matters connected with the board's official duties, and the prosecuting attorney shall provide the written opinion or instructions as though the prosecuting attorney had been designated to serve as the district's legal advisor under division (E)(2) of this section.

(F) A board of county commissioners may issue bonds or bond anticipation notes of the county to pay the cost of preparing general and detailed plans and other data required for the construction of solid waste facilities in connection with a county or joint district. A board of directors of a joint solid waste management district may issue bonds or bond anticipation notes of the joint solid waste management district to pay the cost of preparing general and detailed plans and other data



required for the construction of solid waste facilities in connection with a joint district. The bonds and notes shall be issued in accordance with Chapter 133. of the Revised Code, except that the maximum maturity of bonds issued for that purpose shall not exceed ten years. Bond anticipation notes may be paid from the proceeds of bonds issued either to pay the cost of the solid waste facilities or to pay the cost of the plans and other data.

(G) To the extent authorized by the solid waste management plan of the district approved under section 3734.521 or 3734.55 of the Revised Code or subsequent amended plans of the district approved under section 3734.521 or 3734.56 of the Revised Code, the board of county commissioners of a county district or board of directors of a joint district may adopt, publish, and enforce rules doing any of the following:

(1) Prohibiting or limiting the receipt of solid wastes generated outside the district or outside a service area prescribed in the solid waste management plan or amended plan, at facilities located within the solid waste management district, consistent with the projections contained in the plan or amended plan under divisions (A)(6) and (7) of section 3734.53 of the Revised Code. However, rules adopted by a board under division (G)(1) of this section may be adopted and enforced with respect to solid waste disposal facilities in the solid waste management district that are not owned by a county or the solid waste management district only if the board submits an application to the director of environmental protection that demonstrates that there is insufficient capacity to dispose of all solid wastes that are generated within the district at the solid waste disposal facilities located within the district and the director approves the application. The demonstration in the application shall be based on projections contained in the plan or amended plan of the district. The director shall establish the form of the application. The approval or disapproval of such an application by the director is an action that is appealable under section 3745.04 of the Revised Code.

In addition, the director of environmental protection may issue an order modifying a rule adopted under division (G)(1) of this section to allow the disposal in the district of solid wastes from another county or joint solid waste management district if all of the following apply:

(a) The district in which the wastes were generated does not have sufficient capacity to dispose of solid wastes generated within it for six months following the date of the director's order.

(b) No new solid waste facilities will begin operation during those six months in the district in which the wastes were generated and, despite good faith efforts to do so, it is impossible to site new solid waste facilities within the district because of its high population density.

(c) The district in which the wastes were generated has made good faith efforts to negotiate with other districts to incorporate its disposal needs within those districts' solid waste management plans, including efforts to develop joint facilities authorized under section 343.02 of the Revised Code, and the efforts have been unsuccessful.

(d) The district in which the wastes were generated has located a facility willing to accept the district's solid wastes for disposal within the receiving district.

(e) The district in which the wastes were generated has demonstrated to the director that the conditions specified in divisions (G)(1)(a) to (d) of this section have been met.

(f) The director finds that the issuance of the order will be consistent with the state solid waste management plan and that receipt of the out-of-district wastes will not limit the capacity of the receiving district to dispose of its in-district wastes to less than eight years.

Any order issued under division (G)(1) of this section shall not become final until thirty days after it has been served by certified mail upon the county or joint solid waste management district that will receive the out-of-district wastes.

(2) Governing the maintenance, protection, and use of solid waste collection or other solid waste facilities located within its district. The rules adopted under division (G)(2) of this section shall not establish design standards for solid waste facilities and shall be consistent with the solid waste provisions of Chapter 3734. of the Revised Code and the rules adopted under those provisions. The rules adopted under division (G)(2) of this section may prohibit any person, municipal corporation, township, or other political subdivision from constructing, enlarging, or modifying any solid waste facility until general plans and specifications for the proposed improvement have been submitted to and approved by the board of county commissioners or board of directors as complying with the solid waste management plan or amended plan of the district. The construction of such a facility shall be done under the supervision of the county sanitary engineer or, in the case of a joint district, a county sanitary engineer designated by the board of directors, and any person, municipal corporation, township, or other political subdivision proposing or constructing such improvements shall pay to the county or joint district all expenses incurred by the board in connection therewith. The sanitary engineer may enter upon any public or private property for the purpose of making surveys or examinations necessary for designing solid waste facilities or for supervising the construction, enlargement, modification, or operation of any such facilities. No person, municipal corporation, township, or other political subdivision shall forbid or interfere with the sanitary engineer or the sanitary engineer's authorized assistants entering upon such property for that purpose. If actual damage is done to property by the making of the surveys and examinations, a board shall pay the reasonable value of that damage to the owner of the property damaged, and the cost shall be included in the financing of the improvement for which the surveys and examinations are made.

(3) Governing the development and implementation of a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's solid waste management plan or amended plan. A board of county commissioners or board of directors or its authorized representative may enter upon the premises of any solid waste facility included in the district's solid waste management plan or amended plan for the purpose of conducting the inspections required or authorized by the rules adopted under division (G)(3) of this section. No person, municipal corporation, township, or other political subdivision shall forbid or interfere with a board of county commissioners or directors or its authorized representative entering upon the premises of any such solid waste facility for that purpose.

(4) Exempting the owner or operator of any existing or proposed solid waste facility provided for in the plan or amended plan from compliance with any amendment to a township zoning resolution adopted under section 519.12 of the Revised Code or to a county rural zoning resolution adopted under section 303.12 of the Revised Code that rezoned or redistricted the parcel or parcels upon which the facility is to be constructed or modified and that became effective within two years prior to the filing of an application for a permit required under division (A)(2)(a) of section 3734.05 of the Revised Code to open a new or modify an existing solid waste facility.

(H) A board of county commissioners or board of directors may enter into a contract with any person, municipal corporation, township, or other political subdivision for the operation and

maintenance of any solid waste facilities regardless of whether the facilities are owned or leased by the county or joint district or the contractor.

(I)(1) No person, municipal corporation, township, or other political subdivision shall tamper with or damage any solid waste facility constructed under this chapter or any apparatus or accessory connected therewith or pertaining thereto, fail or refuse to comply with the applicable rules adopted by a board of county commissioners or directors under division (G)(1), (2), (3), or (4) of this section, refuse to permit an inspection or examination by a sanitary engineer as authorized under division (G)(2) of this section, or refuse to permit an inspection by a board of county commissioners or directors or its authorized representative as required or authorized by rules adopted under division (G)(3) of this section.

(2) If the board of county commissioners of a county district or board of directors of a joint district has established facility designations under section 343.013, 343.014, or 343.015 of the Revised Code, or the director has established facility designations in the initial or amended plan of the district prepared and ordered to be implemented under section 3734.521, 3734.55, or 3734.56 of the Revised Code, no person, municipal corporation, township, or other political subdivision shall deliver, or cause the delivery of, any solid wastes generated within a county or joint district to any solid waste facility other than the facility designated under section 343.013, 343.014, or 343.015 of the Revised Code, or in the initial or amended plan of the district prepared and ordered to be implemented under section 3734.521, 3734.55, or 3734.56 of the Revised Code, as applicable, except that source separated recyclable materials may be taken to any legitimate recycling facility. Upon the request of a person or the legislative authority of a municipal corporation or township, the board of county commissioners of a county district or board of directors of a joint district may grant a waiver authorizing the delivery of all or any portion of the solid wastes generated in a municipal corporation or township to a solid waste facility other than the facility designated under section 343.013, 343.014, or 343.015 of the Revised Code, or in the initial or amended plan of the district prepared and ordered to be implemented under section 3734.521, 3734.55, or 3734.56 of the Revised Code, as applicable, regardless of whether the other facility is located within or outside of the district, if the board finds that delivery of those solid wastes to the other facility is not inconsistent with the projections contained in the district's initial or amended plan under divisions (A)(6) and (7) of section 3734.53 of the Revised Code as approved or ordered to be implemented and will not adversely affect the implementation and financing of the district's initial or amended plan pursuant to the implementation schedule contained in it under divisions (A)(12)(a) to (d) of that section. The board shall act on a request for such a waiver within ninety days after receiving the request. Upon granting such a waiver, the board shall send notice of that fact to the director. The notice shall indicate to whom the waiver was granted. Any waiver or authorization granted by a board on or before October 29, 1993, shall continue in force until the board takes action concerning the same entity under this division or until action is taken under division (G) of section 343.014 of the Revised Code.

(J) Divisions (G)(1) to (4) and (I)(2) of this section do not apply to the construction, operation, use, repair, enlargement, or modification of either of the following:

(1) A solid waste facility owned by a generator of solid wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated;

(2) A facility that exclusively disposes of wastes that are generated from the combustion of coal, or from the combustion of primarily coal in combination with scrap tires, that is not combined in any way with garbage at one or more premises owned by the generator.

(K)(1) A member of the board of county commissioners of a county solid waste management district, member of the board of directors of a joint solid waste management district, member of the board of trustees of a regional solid waste management authority managing a county or joint solid waste management district, or officer or employee of any solid waste management district, for the purposes of sections 102.03, 102.04, 2921.41, and 2921.42 of the Revised Code, shall not be considered to be directly or indirectly interested in, or improperly influenced by, any of the following:

(a) A contract entered into under this chapter or section 307.15 or sections 3734.52 to 3734.575 of the Revised Code between the district and any county forming the district, municipal corporation or township located within the district, or health district having territorial jurisdiction within the district, of which that member, officer, or employee also is an officer or employee, but only to the extent that any interest or influence could arise from holding public office or employment with the political subdivision or health district;

(b) A contract entered into under this chapter or section 307.15 or sections 3734.52 to 3734.575 of the Revised Code between the district and a county planning commission organized under section 713.22 of the Revised Code, or regional planning commission created under section 713.21 of the Revised Code, having territorial jurisdiction within the district, of which that member also is a member, officer, or employee, but only to the extent that any interest or influence could arise from holding public office or employment with the commission;

(c) An expenditure of money made by the district for the benefit of any county forming the district, municipal corporation or township located within the district, or health district or county or regional planning commission having territorial jurisdiction within the district, of which that member also is a member, officer, or employee, but only to the extent that any interest or influence could arise from holding public office or employment with the political subdivision, health district, or commission;

(d) An expenditure of money made for the benefit of the district by any county forming the district, municipal corporation or township located within the district, or health district or county or regional planning commission having territorial jurisdiction within the district, of which that member also is a member, officer, or employee, but only to the extent that any interest or influence could arise from holding public office or employment with the political subdivision, health district, or commission.

(2) A solid waste management district, county, municipal corporation, township, health district, or planning commission described or referred to in divisions (K)(1)(a) to (d) of this section shall not be construed to be the business associate of a person who is concurrently a member of the board of county commissioners, directors, or trustees, or an officer or employee, of the district and an officer or employee of that municipal corporation, county, township, health district, or planning commission for the purposes of sections 102.03, 2921.42, and 2921.43 of the Revised Code. Any person who is concurrently a member of the board of county commissioners, directors, or trustees, or an officer or employee, of a solid waste management district so described or referred to and an

officer or employee of a county, municipal corporation, township, health district, or planning commission so described or referred to may participate fully in deliberations concerning and vote on or otherwise participate in the approval or disapproval of any contract or expenditure of funds described in those divisions as a member of the board of county commissioners or directors, or an officer or employee, of a county or joint solid waste management district; member of the board of trustees, or an officer or employee, of a regional solid waste management authority managing a county or joint solid waste management district; member of the legislative authority, or an officer or employee, of a county forming the district; member of the legislative authority, or an officer or employee, of a municipal corporation or township located within the district; member of the board of health, or an officer or employee, of a health district having territorial jurisdiction within the district; or member of the planning commission, or an officer or employee of a county or regional planning commission having territorial jurisdiction within the district.

(3) Nothing in division (K)(1) or (2) of this section shall be construed to exempt any member of the board of county commissioners, directors, or trustees, or an officer or employee, of a solid waste management district from a conflict of interest arising because of a personal or private business interest.

(4) A member of the board of county commissioners of a county solid waste management district, board of directors of a joint solid waste management district, or board of trustees of a regional solid waste management authority managing a county or joint solid waste management district, or an officer or employee, of any such solid waste management district, neither shall be disqualified from holding any other public office or position of employment nor be required to forfeit any other public office or position of employment by reason of serving as a member of the board of county commissioners, directors, or trustees, or as an officer or employee, of the district, notwithstanding any requirement to the contrary under the common law of this state or the Revised Code.

(L) As used in this chapter:

(1) "Board of health," "disposal," "health district," "scrap tires," and "solid waste transfer facility" have the same meanings as in section 3734.01 of the Revised Code.

(2) "Change in district composition" and "change" have the same meaning as in section 3734.521 of the Revised Code.

(3)(a) Except as provided in division (L)(3)(b) or (c), and (d), of this section, "solid wastes" has the same meaning as in section 3734.01 of the Revised Code.

(b) If the solid waste management district is not one that resulted from proceedings for a change in district composition under sections 343.012 and 3734.521 of the Revised Code, until such time as an amended solid waste management plan is approved under section 3734.56 of the Revised Code, "solid wastes" need not include scrap tires unless the solid waste management policy committee established under section 3734.54 of the Revised Code for the district chooses to include the management of scrap tires in the district's initial solid waste management plan prepared under sections 3734.54 and 3734.55 of the Revised Code.

(c) If the solid waste management district is one resulting from proceedings for a change in district composition under sections 343.012 and 3734.521 of the Revised Code and if the change involves an existing district that is operating under either an initial solid waste management plan

approved or prepared and ordered to be implemented under section 3734.55 of the Revised Code or an initial or amended plan approved or prepared and ordered to be implemented under section 3734.521 of the Revised Code that does not provide for the management of scrap tires and scrap tire facilities, until such time as the amended plan of the district resulting from the change is approved under section 3734.56 of the Revised Code, "solid wastes" need not include scrap tires unless the solid waste management policy committee established under division (C) of section 3734.521 of the Revised Code for the district chooses to include the management of scrap tires in the district's initial or amended solid waste management plan prepared under section 3734.521 of the Revised Code in connection with the change proceedings.

(d) If the policy committee chooses to include the management of scrap tires in an initial plan prepared under sections 3734.54 and 3734.55 of the Revised Code or in an initial or amended plan prepared under section 3734.521 of the Revised Code, the board of county commissioners or directors shall execute all of the duties imposed and may exercise any or all of the rights granted under this section for the purpose of managing solid wastes that consist of scrap tires.

(4)(a) Except as provided in division (L)(4)(b) or (c), and (d) of this section, "facility" has the same meaning as in section 3734.01 of the Revised Code and also includes any solid waste transfer, recycling, or resource recovery facility.

(b) If the solid waste management district is not one that resulted from proceedings for a change in district composition under sections 343.012 and 3734.521 of the Revised Code, until such time as an amended solid waste management plan is approved under section 3734.56 of the Revised Code, "facility" need not include any scrap tire collection, storage, monocell, monofill, or recovery facility unless the solid waste management policy committee established under section 3734.54 of the Revised Code for the district chooses to include the management of scrap tire facilities in the district's initial solid waste management plan prepared under sections 3734.54 and 3734.55 of the Revised Code.

(c) If the solid waste management district is one resulting from proceedings for a change in district composition under sections 343.012 and 3734.521 of the Revised Code and if the change involves an existing district that is operating under either an initial solid waste management plan approved under section 3734.55 of the Revised Code or an initial or amended plan approved or prepared and ordered to be implemented under section 3734.521 of the Revised Code that does not provide for the management of scrap tires and scrap tire facilities, until such time as the amended plan of the district resulting from the change is approved under section 3734.56 of the Revised Code, "facility" need not include scrap tires unless the solid waste management policy committee established under division (C) of section 3734.521 of the Revised Code for the district chooses to include the management of scrap tires in the district's initial or amended solid waste management plan prepared under section 3734.521 of the Revised Code in connection with the change proceedings.

(d) If the policy committee chooses to include the management of scrap tires in an initial plan prepared under sections 3734.54 and 3734.55 of the Revised Code or in an initial or amended plan prepared under section 3734.521 of the Revised Code, the board of county commissioners or directors shall execute all of the duties imposed and may exercise any or all of the rights granted under this section for the purpose of managing solid waste facilities that are scrap tire collection,

storage, monocell, monofill, or recovery facilities.

(M) As used in this section:

(1) "Source separated recyclable materials" means materials that are separated from other solid wastes at the location where the materials are generated for the purpose of recycling the materials at a legitimate recycling facility.

(2) "Legitimate recycling facility" has the same meaning as in rule 3745-27-01 of the Administrative Code.

**Sec. 349.01.** As used in this chapter:

(A) "New community" means a community or development of property in relation to an existing community planned so that the resulting community includes facilities for the conduct of industrial, commercial, residential, cultural, educational, and recreational activities, and designed in accordance with planning concepts for the placement of utility, open space, and other supportive facilities.

(B) "New community development program" means a program for the development of a new community characterized by well-balanced and diversified land use patterns and which includes land acquisition and land development, the acquisition, construction, operation, and maintenance of community facilities, and the provision of services authorized in this chapter.

A new community development program may take into account any existing community in relation to which a new community is developed for purposes of being characterized by well-balanced and diversified land use patterns.

(C) "New community district" means the area of land described by the developer in the petition as set forth in division (A) of section 349.03 of the Revised Code for development as a new community and any lands added to the district by amendment of the resolution establishing the community authority.

(D) "New community authority" means a body corporate and politic in this state, established pursuant to section 349.03 of the Revised Code and governed by a board of trustees as provided in section 349.04 of the Revised Code.

(E) "Developer" means any person, organized for carrying out a new community development program who owns or controls, through leases of at least seventy-five years' duration, options, or contracts to purchase, the land within a new community district, or any municipal corporation, county, or port authority that owns the land within a new community district, or has the ability to acquire such land, either by voluntary acquisition or condemnation in order to eliminate slum, blighted, and deteriorated or deteriorating areas and to prevent the recurrence thereof. "Developer" may also mean a person, municipal corporation, county, or port authority that controls land within a new community district through leases of at least seventy-five years' duration.

(F) "Organizational board of commissioners" means the following:

(1) For a new community district that is located in only one county, the board of county commissioners of that county;

(2) For a new community district that is located in more than one county, a board consisting of the members of the board of county commissioners of each of the counties in which the district is located, provided that action of the board shall require a majority vote of the members of each separate board of county commissioners; or

(3) For a new community district that is located entirely within the boundaries of a municipal corporation or for a new community district where more than half of the new community district is located within the boundaries of the most populous municipal corporation of a county, the legislative authority of the municipal corporation.

(G) "Land acquisition" means the acquisition of real property and interests in real property as part of a new community development program.

(H) "Land development" means the process of clearing and grading land, making, installing, or constructing water distribution systems, sewers, sewage collection systems, steam, gas, and electric lines, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, and other installations or work, whether within or without the new community district, and the construction of community facilities.

(I) "Community facilities" means all real property, buildings, structures, or other facilities, including related fixtures, equipment, and furnishings, to be owned, operated, financed, constructed, and maintained under this chapter or in furtherance of community activities, including public, community, village, neighborhood, or town buildings, centers and plazas, auditoriums, day care centers, recreation halls, educational facilities, health care facilities including hospital facilities as defined in section 140.01 of the Revised Code, telecommunications facilities, including all facilities necessary to provide telecommunications service as defined in section 4927.01 of the Revised Code, recreational facilities, natural resource facilities, including parks and other open space land, lakes and streams, cultural facilities, community streets and off-street parking facilities, pathway and bikeway systems, pedestrian underpasses and overpasses, lighting facilities, design amenities, or other community facilities, and buildings needed in connection with water supply or sewage disposal installations, or energy facilities including those for renewable or sustainable energy sources, and steam, gas, or electric lines or installation.

(J) "Cost" as applied to a new community development program means all costs related to land acquisition and land development, the acquisition, construction, maintenance, and operation of community facilities and offices of the community authority, and of providing furnishings and equipment therefor, financing charges including interest prior to and during construction and for the duration of the new community development program, planning expenses, engineering expenses, administrative expenses including working capital, and all other expenses necessary and incident to the carrying forward of the new community development program.

(K) "Income source" means any and all sources of income to the community authority, including community development charges of which the new community authority is the beneficiary as provided in section 349.07 of the Revised Code, rentals, user fees and other charges received by the new community authority, any gift or grant received, any moneys received from any funds invested by or on behalf of the new community authority, and proceeds from the sale or lease of land and community facilities.

(L) "Community development charge" means:

(1) A dollar amount which shall be determined on the basis of the assessed valuation of real property or interests in real property in a new community district owned, sold, leased, or otherwise conveyed by the developer or the new community authority, the income of the residents of such property subject to such charge under section 349.07 of the Revised Code, if such property is devoted



to residential uses or to the profits, gross receipts, or other revenues of any business including, but not limited to, rentals received from leases of real property located in the district, a uniform or other fee on each parcel of such real property owned, sold, leased, or otherwise conveyed by the developer or new community authority, or any combination of the foregoing bases.

(2) If a new community authority imposes a community development charge determined on the basis of rentals received from leases of real property, improvements of any real property located in the new community district and subject to that charge may not be exempted from taxation under section 5709.40, 5709.41, 5709.73, or 5709.78 of the Revised Code.

(M) "Proximate city" means the following:

(1) For a new community district other than a new community district described in division (M)(2) or (3) of this section, any city that, as of the date of filing of the petition under section 349.03 of the Revised Code, is the city with the greatest population located in the county in which the proposed new community district is located, is the city with the greatest population located in an adjoining county if any portion of such city is within five miles of any part of the boundaries of such district, or exercises extraterritorial subdivision authority under section 711.09 of the Revised Code with respect to any part of such district.

(2) A municipal corporation in which, at the time of filing the petition under section 349.03 of the Revised Code, any portion of the proposed new community district is located.

(3) For a new community district other than a new community district described in division (M)(2) of this section, if at the time of filing the petition under section 349.03 of the Revised Code, more than one-half of the proposed district is contained within a joint economic development district created under sections 715.70 to 715.83 of the Revised Code, the township containing the greatest portion of the territory of the joint economic development district.

(N) "Community activities" means cultural, educational, governmental, recreational, residential, industrial, commercial, distribution and research activities, or any combination thereof that includes residential activities.

**Sec. 349.03.** (A) Proceedings for the organization of a new community authority shall be initiated by a petition filed by the developer in the office of the clerk of the organizational board of commissioners. Such petition shall be signed by the developer and may be signed by each proximate city. The legislative authorities of each such proximate city shall act in behalf of such city. Such petition shall contain:

(1) The name of the proposed new community authority;

(2) The address where the principal office of the authority will be located or the manner in which the location will be selected;

(3) A map and a full and accurate description of the boundaries of the new community district together with a description of the properties within such boundaries, if any, which will not be included in the new community district.

The total acreage included in such district shall not be less than one thousand acres, all of which acreage shall be owned by, or under the control through leases of at least seventy-five years' duration, options, or contracts to purchase, of the developer, if the developer is a private entity unless one of the following applies:

(a) The district is wholly contained within municipal corporations.

(b) More than one-half of the proposed district is, at the time of filing the petition under this section, contained within a joint economic development district created under sections 715.70 to 715.83 of the Revised Code.

(4) A statement setting forth the zoning regulations proposed for zoning the area within the boundaries of the new community district for comprehensive development as a new community, and if the area has been zoned for such development, a certified copy of the applicable zoning regulations therefor;

(5) A current plan indicating the proposed development program for the new community district, the land acquisition and land development activities, community facilities, services proposed to be undertaken by the new community authority under such program, the proposed method of financing such activities and services, including a description of the bases, timing, and manner of collecting any proposed community development charges, and the projected total residential population of, and employment within, the new community;

(6) A suggested number of members, consistent with section 349.04 of the Revised Code, for the board of trustees;

(7) A preliminary economic feasibility analysis, including the area development pattern and demand, location and proposed new community district size, present and future socio-economic conditions, public services provision, financial plan, and the developer's management capability;

(8) A statement that the development will comply with all applicable environmental laws and regulations.

Upon the filing of such petition, the organizational board of commissioners shall determine whether such petition complies with the requirements of this section as to form and substance. The board in subsequent proceedings may at any time permit the petition to be amended in form and substance to conform to the facts by correcting any errors in the description of the proposed new community district or in any other particular.

Upon the determination of the organizational board of commissioners that a sufficient petition has been filed in accordance with this section, the board shall fix the time and place of a hearing on the petition for the establishment of the proposed new community authority. Such hearing shall be held not less than ninety-five nor more than one hundred fifteen days after the petition filing date, except that if the petition has been signed by all proximate cities or if the organizational board of commissioners is the legislative authority of the only proximate city for the proposed new community district, such hearing shall be held not less than thirty nor more than forty-five days after the petition filing date. The clerk of the organizational board of commissioners with which the petition was filed shall give notice thereof by publication once each week for three consecutive weeks, or as provided in section 7.16 of the Revised Code, in a newspaper of general circulation in any county of which a portion is within the proposed new community district. Except where the organizational board of commissioners is the legislative authority of the only proximate city for the proposed new community district, such clerk shall also give written notice of the date, time, and place of the hearing and furnish a certified copy of the petition to the clerk of the legislative authority of each proximate city which has not signed such petition. Except where the organizational board of commissioners is the legislative authority of the only proximate city for the proposed new community district, in the event that the legislative authority of a proximate city which did not sign

the petition does not approve by ordinance, resolution, or motion the establishment of the proposed new community authority and does not deliver such ordinance, resolution, or motion to the clerk of the organizational board of commissioners with which the petition was filed within ninety days following the date of the first publication of the notice of the public hearing, the organizational board of commissioners shall cancel such public hearing and terminate the proceedings for the establishment of the new community authority.

Upon the hearing, if the organizational board of commissioners determines by resolution that the proposed new community district will be conducive to the public health, safety, convenience, and welfare, and is intended to result in the development of a new community, the board shall by its resolution, declare the new community authority to be organized and a body politic and corporate with the corporate name designated in the resolution, and define the boundary of the new community district. In addition, the resolution shall provide the method of selecting the board of trustees of the new community authority and fix the surety for their bonds in accordance with section 349.04 of the Revised Code.

If the organizational board of commissioners finds that the establishment of the district will not be conducive to the public health, safety, convenience, or welfare, or is not intended to result in the development of a new community, it shall reject the petition thereby terminating the proceedings for the establishment of the new community authority.

(B) At any time after the creation of a new community authority, the developer may file an application with the clerk of the organizational board of commissioners with which the original petition was filed, setting forth a general description of territory it desires to add or to delete from such district, that such change will be conducive to the public health, safety, convenience, and welfare, and will be consistent with the development of a new community and will not jeopardize the plan of the new community. If the developer is not a municipal corporation, port authority, or county, all of such an addition to such a district shall be owned by, or under the control through leases of at least seventy-five years' duration, options, or contracts to purchase, of the developer. Upon the filing of the application, the organizational board of commissioners shall follow the same procedure as required by this section in relation to the petition for the establishment of the proposed new community.

(C) If all or any part of the new community district is annexed to one or more existing municipal corporations, their legislative authorities may appoint persons to replace any appointed citizen member of the board of trustees. The number of such trustees to be replaced by the municipal corporation shall be the number, rounded to the lowest integer, bearing the proportionate relationship to the number of existing appointed citizen members as the acreage of the new community district within such municipal corporation bears to the total acreage of the new community district. If any such municipal corporation chooses to replace an appointed citizen member, it shall do so by ordinance, the term of the trustee being replaced shall terminate thirty days from the date of passage of such ordinance, and the trustee to be replaced shall be determined by lot. Each newly appointed member shall assume the term of the member's predecessor.

**Sec. 349.04.** The following method of selecting a board of trustees is deemed to be a compelling state interest. Within ten days after the new community authority has been established, as provided in section 349.03 of the Revised Code, an initial board of trustees shall be appointed as

follows: the organizational board of commissioners shall appoint by resolution at least three, but not more than six, citizen members of the board of trustees to represent the interests of present and future residents and employers of the new community district and one member to serve as a representative of local government, and the developer shall appoint a number of members equal to the number of citizen members to serve as representatives of the developer.

Members shall serve two-year overlapping terms, with two of each of the initial citizen and developer members appointed to serve initial one-year terms. The organizational board of commissioners shall adopt, by further resolution adopted within one year of such resolution establishing such initial board of trustees, a method for selection of successor members thereof which determines the projected total population of the projected new community and meets the following criteria:

(A) The appointed citizen members shall be replaced by elected citizen members according to a schedule established by the organizational board of commissioners calculated to achieve one such replacement each time the new community district gains a proportion, having a numerator of one and a denominator of twice the number of citizen members, of its projected total population until such time as all of the appointed citizen members are replaced.

(B) Representatives of the developer shall be replaced by elected citizen members according to a schedule established by the organizational board of commissioners calculated to achieve one such replacement each time the new community district gains a proportion, having a numerator of one and a denominator equal to the number of developer members, of its projected total population until such time as all of the developer's representatives are replaced.

(C) The representative of local government shall be replaced by an elected citizen member at the time the new community district gains three-quarters of its projected total population.

Elected citizen members of the board of trustees shall be elected by a majority of the residents of the new community district voting at elections held at the times and in the manner provided in a resolution of the organizational board of commissioners. Each citizen member except an appointed citizen member shall be a qualified elector who resides within the new community district. The organizational board of commissioners, by resolution, may adopt an alternative method of selecting or electing successor members of the board of trustees provided that if an alternative method of selection is adopted for a new community authority organized prior to March 22, 2012, the board of trustees of that authority shall be limited in the collection of a community development charge, collected pursuant to division (Q) of section 349.06 of the Revised Code, and the issuance of bonds or notes, issued pursuant to section 349.08 of the Revised Code, to the amount or to the extent otherwise permitted for a board of trustees whose members are not elected by residents of the new community district. If the alternative method provides for the election of citizen members, the elections may be held at the times and in the manner provided in the petition or in a resolution of the organizational board of commissioners, and the elected citizen members shall be qualified electors who reside in the new community district.

Citizen members shall not be employees of or have financial interest in the developer. If a vacancy occurs in the office of a member other than a member appointed by the developer, the organizational board of commissioners may appoint a successor member for the remainder of the unexpired term. Any appointed member of the board of trustees may at any time be removed by the

organizational board of commissioners for misfeasance, nonfeasance, or malfeasance in office. Members appointed by the developer may also at any time be removed by the developer without a showing of cause.

Each member of the board of trustees, before entering upon official duties, shall take and subscribe to an oath before an officer authorized to administer oaths in Ohio that the member will honestly and faithfully perform the duties of the member's office. Such oath shall be filed in the office of the clerk of the organizational board of commissioners with which the petition was filed. Upon taking the oath, the board of trustees shall elect one of its number as chairperson and another as vice-chairperson, and shall appoint suitable persons as secretary and treasurer who need not be members of the board. The treasurer shall be the fiscal officer of the authority. The board shall adopt by-laws governing the administration of the affairs of the new community authority. Each member of the board shall post a bond for the faithful performance of official duties and give surety therefor in such amount, but not less than ten thousand dollars, as the resolution creating such board shall prescribe.

All of the powers of the new community authority shall be exercised by its board of trustees, but without relief of such responsibility, such powers may be delegated to committees of the board or its officers and employees in accordance with its by-laws. A majority of the board shall constitute a quorum, and a concurrence of a majority of a quorum in any matter within the board's duties is sufficient for its determination, provided a quorum is present when such concurrence is had and a majority of those members constituting such quorum are trustees not appointed by the developer. All trustees shall be empowered to vote on all matters within the authority of the board of trustees, and no vote by a member appointed by the developer shall be construed to give rise to civil or criminal liability for conflict of interest on the part of public officials.

**Sec. 349.06.** In furtherance of the purposes of this chapter, a new community authority may:

(A) Acquire by purchase, lease, gift, or otherwise, on such terms and in such manner as it considers proper, real and personal property or any estate, interest, or right therein, within or without the new community district;

(B) Improve, maintain, sell, lease or otherwise dispose of real and personal property and community facilities, on such terms and in such manner as it considers proper;

(C) Landscape and otherwise aesthetically improve areas within the new community district, including but not limited to maintenance, landscaping and other community improvement services;

(D) Provide, engage in, or otherwise sponsor recreational, educational, health, social, vocational, cultural, beautification, and amusement activities and related services primarily for residents of, visitors to, employees working within, or employers operating businesses in the district, or any combination thereof.

(E) Fix, alter, impose, collect and receive service and user fees, rentals, and other charges to cover all costs in carrying out the new community development program;

(F) Adopt, modify, and enforce reasonable rules and regulations governing the use of community facilities;

(G) Employ such managers, administrative officers, agents, engineers, architects, attorneys, contractors, sub-contractors, and employees as may be appropriate in the exercise of the rights, powers and duties conferred upon it, prescribe the duties and compensation for such persons, require

bonds to be given by any such persons and by officers of the authority for the faithful performance of their duties, and fix the amount and surety therefor; and pay the same;

(H) Sue and be sued in its corporate name;

(I) Make and enter into all contracts and agreements and execute all instruments relating to a new community development program, including contracts with the developer and other persons or entities related thereto for land acquisition and land development; acquisition, construction, and maintenance of community facilities; the provision of community services and management and coordinating services; with federal, state, interstate, regional, and local agencies and political subdivisions or combinations thereof in connection with the financing of such program, and with any municipal corporation or other public body, or combination thereof, providing for the acquisition, construction, improvement, extension, maintenance or operation of joint lands or facilities or for the provision of any services or activities relating to and in furtherance of a new community development program, including the creation of or participation in a regional transit authority created pursuant to the Revised Code;

(J) Apply for and accept grants, loans or commitments of guarantee or insurance including any guarantees of community authority bonds and notes, from the United States, the state, or other public body or other sources, and provide any consideration which may be required in order to obtain such grants, loans or contracts of guarantee or insurance. Such loans or contracts of guarantee or insurance may be evidenced by the issuance of bonds as provided in section 349.08 of the Revised Code;

(K) Procure insurance against loss to it by reason of damage to its properties resulting from fire, theft, accident, or other casualties, or by reason of its liability for any damages to persons or property occurring in the construction or operation of facilities or areas under its jurisdiction or the conduct of its activities;

(L) Maintain such funds or reserves as it considers necessary for the efficient performance of its duties;

(M) Enter agreements with the boards of education of any school districts in which all or part of the new community district lies, whereby the community authority may acquire property for, may construct and equip, and may sell, lease, dedicate, with or without consideration, or otherwise transfer lands, schools, classrooms, or other facilities, whether or not within the new community district, from the authority to the school district for school and related purposes;

(N) Prepare plans for acquisition and development of lands and facilities, and enter into agreements with city, county, or regional planning commissions to perform or obtain all or any part of planning services for the new community district;

(O) Engage in planning for the new community district, which may be predominantly residential and open space, and prepare or approve a development plan or plans therefor, and engage in land acquisitions and land development in accordance with such plan or plans;

(P) Issue new community authority bonds and notes and community authority refunding bonds, payable solely from the income source provided in section 349.08 of the Revised Code, unless the bonds are refunded by refunding bonds, for the purpose of paying any part of the cost as applied to the new community development program or parts thereof;

(Q) Enforce any covenants running with the land of which the new community authority is

the beneficiary, including but not limited to the collection by any and all appropriate means of any community development charge deemed to be a covenant running with the land and enforceable by the new community authority pursuant to section 349.07 of the Revised Code; and to waive, reduce, or terminate any community development charge of which it is the beneficiary to the extent not needed for any of the purposes provided in section 349.07 of the Revised Code, the procedure for which shall be provided in such covenants, and if new community authority bonds have been issued pledging any such community development charge, to the extent not prohibited in the resolution authorizing the issuance of such new community authority bonds or the trust agreement or indenture of mortgage securing the bonds;

(R) Appropriate for its use, under sections 163.01 to 163.22 of the Revised Code, any land, easement, rights, rights-of-way, franchises, or other property in the new community district required by the authority for community facilities. The authority may not so appropriate any land, easement, rights, rights-of-way, franchises, or other property that is not included in the new community district.

(S) Enter into any agreements as may be necessary, appropriate, or useful to support a new community development program, including, but not limited to, cooperative agreements or other agreements with political subdivisions for services, materials, or products; for the administration, calculation, or collection of community development charges; or for sharing of revenue derived from community development charges, community facilities, or other sources. The agreements may be made with or without consideration as the parties determine.

**Sec. 349.07.** Notwithstanding any other rule of law, any covenant or agreement in deeds, land contracts, leases and any other instruments or conveyance by which real estate or any interest in real estate is conveyed by or to the developer or by the new community authority to any person or entity, including the developer, whereby such person or entity agrees, by acceptance of any such instrument of conveyance containing said covenant of agreement, to pay annually or semiannually a community development charge for the benefit and use of the new community authority to cover all or part of the cost of the acquisition, construction, operation and maintenance of land, land development and community facilities, the debt service thereof and any other cost incurred by the authority in the exercise of the powers granted by Chapter 349. of the Revised Code shall be deemed to be a covenant running with the land and shall, in any event and without regard to technical classification, after such instrument has been duly recorded in the land records of the county, be fully binding on behalf of and enforceable by the new community authority against each such person or entity and all successors and assigns of the property conveyed by such instrument of conveyance.

No purchase agreement for any real estate or interest in real estate upon which a community development charge exists by reason of a covenant running with the land shall be enforceable by the seller or binding upon the purchaser unless such purchase agreement specifically refers to such community development charge and identifies the volume and page number of the deed records of the county in which the covenant running with the land establishing such community development charge is recorded, provided that in the event a conveyance of such real estate or interest in real estate is made pursuant to a purchase agreement which does not make such reference and identification, the covenant shall continue to be deemed to be a covenant running with the land fully binding on behalf of and enforceable by the community authority against such person or entity accepting the conveyance pursuant to such purchase agreement.

The new community authority may certify the community development charge to the county auditor, who shall enter the unpaid charge on the tax list and duplicates of real property opposite the parcel against which it is charged, and certify the charge to the county treasurer. An unpaid community development charge is a lien on property against which it is charged from the date the charge is entered on the tax list, and shall be collected in the manner provided for the collection of real property taxes. Once the charge is collected, it shall be paid immediately to the new community district.

No community development charge established pursuant to this chapter shall be construed as prohibiting or limiting the taxing power of municipal corporations.

**Sec. 349.14.** Except as provided in section 349.03 of the Revised Code, or as otherwise provided in a resolution adopted by the organizational board of commissioners of a new community authority, a new community authority organized under this chapter may be dissolved only on the vote of a majority of the voters of the new community district at a special election called by the board of trustees on the question of dissolution. Such an election may be called only after the board has determined that the new community development program has been completed, when no community authority bonds or notes are outstanding, and other legal indebtedness of the authority has been discharged or provided for, and only after there has been filed with the board of trustees a petition requesting such election, signed by a number of qualified electors residing in the new community district equal to not less than eight per cent of the total vote cast for all candidates for governor in the new community district at the most recent general election at which a governor was elected. If a majority of the votes cast favor dissolution, the board of trustees shall, by resolution, declare the authority dissolved and thereupon the community authority shall be dissolved. A certified copy of the resolution shall, within fifteen days after its adoption, be filed with the clerk of the organizational board of commissioners of the county with which the petition for the organization of the new community authority was filed.

Upon dissolution of a new community authority, the powers thereof shall cease to exist. Any property of the new community authority shall vest with a municipal corporation, county, or township in which that property is located or with the developer of the new community authority or the developer's designee, all as provided in a resolution adopted by the organizational board of commissioners. Any vesting of property in a municipal corporation, township, or county shall be subject to acceptance of the property by resolution of the legislative authority of the municipal corporation, board of township trustees, or board of county commissioners, as applicable. If the legislative authority of a municipal corporation, board of township trustees, or board of county commissioners declines to accept the property, the property vests with the developer or the developer's designee. Any funds of the community authority at the time of dissolution shall be transferred to the municipal corporation and county or township, as provided in a resolution, in which the new community district is located in the proportion to the assessed valuation of taxable real property of the new community authority within such municipal corporation and township or county as said valuation appears on the current assessment rolls.

**Sec. 355.02.** (A) Each board of county commissioners may adopt a resolution to establish a local healthier buckeye council. If a local council is established, the resolution shall specify the organization of the council and shall designate a member to serve as a staffing agent and, if the board



determines necessary, a member to serve as a fiscal agent. The board may revise the council's organization as necessary by adopting a resolution.

(B)(1) The board may invite any person or entity to become a member of the council, including any of the following:

(a) Individuals with community leadership experience;

(b) Individuals with experience leading others;

(c) Individuals likely to receive healthier buckeye services and participate in healthier buckeye programs;

(d) Representatives from public and private entities, including any of the following:

(i) Employers;

(ii) Municipal corporations, counties, and townships;

(iii) Courts, including those with specialized court programs certified by the Ohio supreme court;

(iv) Law enforcement;

(v) Faith-based social services organizations;

(vi) Foundations;

(vii) Public health, including free clinics;

(viii) Child support enforcement agencies;

(ix) Children services agencies;

(x) Child care providers;

(xi) Preschool programs;

(xii) Primary and secondary schools;

(xiii) Colleges and universities;

(xiv) Mental health and addiction services providers;

(xv) Medicaid care coordinators or service providers;

(xvi) Emergency or urgent care services providers;

(xvii) Transportation providers;

(xviii) Housing providers;

(xix) The boy scouts of America, 4-H clubs, boys and girls clubs of America, and other similar organizations.

(2) The board may form a multi-county council in accordance with division (C) of this section.

(C)(1) The boards of county commissioners of any two or more counties, by entering into a written agreement, may form a joint local healthier buckeye council. The agreement shall be ratified by resolution of the board of county commissioners of each county that entered into the agreement. Each board of county commissioners that enters into an agreement shall give notice of the agreement to the Ohio healthier buckeye advisory council.

(2) An agreement to establish a joint local healthier buckeye council may set forth procedures or standards necessary for the joint local healthier buckeye council to perform its duties and operate efficiently.

(3) Costs incurred in operating a joint local healthier buckeye council shall be paid from a joint general fund created by the council, except as may be otherwise provided in the agreement.

(4) If a joint local healthier buckeye council is established, all references in the Revised Code to a local healthier buckeye council shall apply to the joint local council.

**Sec. 355.03.** (A) A local healthier buckeye council shall promote all of the following:

(1) A cooperative and effective environment in all communities to maximize opportunities for individuals and families to achieve and maintain optimal health in all aspects, thereby achieving greater productivity and reducing reliance on publicly funded assistance programs;

(2) Means by which council members or the entities the members represent may reduce the reliance of individuals and families on publicly funded assistance programs using both of the following:

(a) Programs that have been demonstrated to be effective and have one or more of the following features:

(i) Low costs;

(ii) Use volunteer workers;

(iii) Use incentives to encourage designated behaviors;

(iv) Are led by peers.

(b) Practices that identify and seek to eliminate barriers to achieving greater financial independence for individuals and families who receive services from or participate in programs operated by council members or the entities the members represent.

(3) Care coordination among physical health, behavioral health, social, employment, education, and housing service providers within the county.

(B) A local healthier buckeye council shall develop a healthier buckeye plan that promotes the objectives set forth in division (A) of this section and submit the council's healthier buckeye plan to the board of county commissioners that created the council and to the Ohio healthier buckeye advisory council.

(C) A local healthier buckeye council shall convene at least once per year.

(D) A local healthier buckeye council shall organize itself in accordance with section 355.02 of the Revised Code and any other applicable provisions of law.

(E) A local healthier buckeye council shall collect and analyze data regarding individuals or families who receive services from or participate in programs operated by council members or the entities the members represent.

(F) Beginning one year after ~~the effective date of this amendment~~ September 29, 2015, each local healthier buckeye council shall submit an annual report of the council's performance to the Ohio healthier buckeye council.

(G) A local healthier buckeye council may apply for, receive, and oversee the administration of grants.

**Sec. 355.04.** A local healthier buckeye council shall report the following information to the joint medicaid oversight committee created in section 103.41 of the Revised Code and to the Ohio healthier buckeye advisory council:

(A) Notification that the local council has been established and information regarding the council's organization, plan, and activities;

(B) Information regarding enrollment or outcome data collected under division (E) of section 355.03 of the Revised Code;

(C) Recommendations regarding the best practices for the administration and delivery of publicly funded assistance programs or other services or programs provided by council members or the entities the members represent;

(D) Recommendations regarding the best practices in care coordination.

**Sec. 503.55.**

**Sec. 503.56.**

**Sec. 503.57.**

**Sec. 505.101.** The board of township trustees of any township may, by resolution, enter into a contract, without advertising or bidding, for the purchase or sale of motor vehicles, materials, equipment, or supplies from or to any department, agency, or political subdivision of the state, for the purchase of services with a soil and water conservation district established under Chapter 940. of the Revised Code, for the purchase of supplies, services, materials, and equipment with a regional planning commission pursuant to division (D) of section 713.23 of the Revised Code, or for the purchase of services from an educational service center under section 3313.846 of the Revised Code. The resolution shall:

(A) Set forth the maximum amount to be paid as the purchase price for the motor vehicles, materials, equipment, supplies, or services;

(B) Describe the type of motor vehicles, materials, equipment, supplies, or services that are to be purchased;

(C) Appropriate sufficient funds to pay the purchase price for the motor vehicles, materials, equipment, supplies, or services, except that no such appropriation is necessary if funds have been previously appropriated for the purpose and remain unencumbered at the time the resolution is adopted.

**Sec. 505.1010.**

**Sec. 505.24.** (A) In calendar year 2016, each township trustee is entitled to compensation in an amount for each day of service in the business of the township, to be paid from the township treasury as follows:

(1) In townships having a budget of two hundred fifty thousand dollars or less, thirty-eight dollars and forty-nine cents per day for not more than two hundred days;

(2) In townships having a budget of more than two hundred fifty thousand but not more than five hundred thousand dollars, forty-four dollars and fifty-seven cents per day for not more than two hundred days;

(3) In townships having a budget of more than five hundred thousand but not more than seven hundred fifty thousand dollars, forty-seven dollars and twenty-seven cents per day for not more than two hundred days;

(4) In townships having a budget of more than seven hundred fifty thousand but not more than one million five hundred thousand dollars, fifty-four dollars and one cent per day for not more than two hundred days;

(5) In townships having a budget of more than one million five hundred thousand but not more than three million five hundred thousand dollars, fifty-nine dollars and forty-two cents per day for not more than two hundred days;

(6) In townships having a budget of more than three million five hundred thousand but not

more than six million dollars, sixty-four dollars and eighty-two cents per day for not more than two hundred days;

(7) In townships having a budget of more than six million but not more than ten million dollars, eighty-three dollars and ninety-nine cents per day for not more than two hundred days;

(8) In townships having a budget of more than ten million dollars, one hundred seven dollars and ninety-eight cents per day for not more than two hundred days.

(B) In calendar year 2017, the amounts paid as specified in division (A) of this section shall be increased by five per cent.

(C) In calendar year 2018 and thereafter, each township trustee is entitled to compensation in the amount determined under division (B) of this section.

(D) Whenever members of a board of township trustees are compensated per diem and not by annual salary, the board shall establish, by resolution, a method by which each member of the board shall periodically notify the township fiscal officer of the number of days spent in the service of the township and the kinds of services rendered on those days. The per diem compensation shall be paid from the township general fund or from other township funds in such proportions as the kinds of services performed may require. The notice shall be filed with the township fiscal officer and preserved for inspection by any persons interested.

By unanimous vote, a board of township trustees may adopt a method of compensation consisting of an annual salary to be paid in equal monthly payments. If the office of trustee is held by more than one person during any calendar year, each person holding the office shall receive payments for only those months, and any fractions of those months, during which the person holds the office. The amount of the annual salary approved by the board shall be no more than the maximum amount that could be received annually by a trustee if the trustee were paid on a per diem basis as specified in this division, and shall be paid from the township general fund or from other township funds in such proportions as the board may specify by resolution. Each trustee shall certify the percentage of time spent working on matters to be paid from the township general fund and from other township funds in such proportions as the kinds of services performed. A board of township trustees that has adopted a salary method of compensation may return to a method of compensation on a per diem basis as specified in this division by a majority vote. Any change in the method of compensation shall be effective on the first day of January of the year following the year during which the board has voted to change the method of compensation.

**Sec. 505.701.** The board of trustees of any township, through unanimous vote of its membership, may designate, participate in, and cooperate with any community improvement corporation organized under Chapter 1724. of the Revised Code and may give financial or other assistance, including any fees generated by the corporation, to that corporation to defray the expenses of the corporation. The corporation may use the board's contributions for any of its functions under Chapter 1724. of the Revised Code subject to any limitations as may be provided by resolution of the board of trustees. Any moneys contributed by the board to the corporation shall be drawn from the general fund of the township not otherwise appropriated.

In addition, the board may purchase real property for the purpose of transferring that property to the community improvement corporation. In order to finance the purchase of that real property, the board may issue general obligation bonds of the township in accordance with Chapter 133. of the

Revised Code, for which the full faith and credit of the township shall be pledged.

**Sec. 505.86.** (A) As used in this section:

"Party in interest" means an owner of record of the real property on which the building or structure is located, and includes a holder of a legal or equitable lien of record on the real property or the building or other structure.

"Total cost" means any costs incurred due to the use of employees, materials, or equipment of the township, any costs arising out of contracts for labor, materials, or equipment, and costs of service of notice or publication required under this section.

(B) A board of township trustees, by resolution, may provide for the removal, repair, or securance of buildings or other structures in the township that have been declared insecure, unsafe, or structurally defective by any fire department under contract with the township or by the county building department or other authority responsible under Chapter 3781. of the Revised Code for the enforcement of building regulations or the performance of building inspections in the township, or buildings or other structures that have been declared to be in a condition dangerous to life or health, or unfit for human habitation by the board of health of the general health district of which the township is a part.

At least thirty days before the removal, repair, or securance of any insecure, unsafe, or structurally defective building or other structure, the board of township trustees shall give notice by certified mail, return receipt requested, to each party in interest of its intention with respect to the removal, repair, or securance of an insecure, unsafe, or structurally defective or unfit building or other structure.

If the address of a party in interest is unknown and cannot reasonably be obtained, it is sufficient to publish the notice once in a newspaper of general circulation in the township.

(C)(1) If the board of trustees, in a resolution adopted under this section, pursues action to remove any insecure, unsafe, or structurally defective building or other structure, the notice shall include a statement informing the parties in interest that each party in interest is entitled to a hearing if the party in interest requests a hearing in writing within twenty days after the notice was mailed. The written request for a hearing shall be made to the township fiscal officer.

(2) If a party in interest timely requests a hearing, the board shall set the date, time, and place for the hearing and notify the party in interest by certified mail, return receipt requested. The date set for the hearing shall be within fifteen days, but not earlier than seven days, after the party in interest has requested a hearing, unless otherwise agreed to by both the board and the party in interest. The hearing shall be recorded by stenographic or electronic means.

(3) The board shall make an order deciding the matter not later than thirty days after a hearing, or not later than thirty days after mailing notice to the parties in interest if no party in interest requested a hearing. The order may dismiss the matter or direct the removal, repair, or securance of the building or other structure. At any time, a party in interest may consent to an order.

(4) A party in interest who requested and participated in a hearing, and who is adversely affected by the order of the board, may appeal the order under section 2506.01 of the Revised Code.

(D) At any time, a party in interest may enter into an agreement with the board of township trustees to perform the removal, repair, or securance of the insecure, unsafe, or structurally defective or unfit building or other structure.

(E) If an emergency exists, as determined by the board, notice may be given other than by certified mail and less than thirty days before the removal, repair, or securance.

(F) The total cost of removing, repairing, or securing buildings or other structures that have been declared insecure, unsafe, structurally defective, or unfit for human habitation, or of making emergency corrections of hazardous conditions, when approved by the board, shall be paid out of the township general fund from moneys not otherwise appropriated, except that, if the costs incurred exceed five hundred dollars, the board may borrow moneys from a financial institution to pay for the costs in whole or in part.

The total cost may be collected by either of the following methods:

(1) The board may have the fiscal officer of the township certify the total costs, together with a proper description of the lands to the county auditor who shall place the costs upon the tax duplicate. The costs are a lien upon the lands from and after the date of entry.

(2) The board may commence a civil action to recover the total costs from the owner of record of the real property on which the building or structure is located.

(G) Any board of township trustees may, whenever a policy or policies of insurance are in force providing coverage against the peril of fire on a building or structure and the loss agreed to between the named insured or insureds and the company or companies is more than five thousand dollars and equals or exceeds sixty per cent of the aggregate limits of liability on all fire policies covering the building or structure on the property, accept security payments and follow the procedures of divisions (C) and (D) of section 3929.86 of the Revised Code.

**Sec. 507.09.** (A) In calendar year 2016, the township fiscal officer shall be entitled to compensation as follows:

(1) In townships having a budget of two hundred fifty thousand dollars or less, ten thousand three hundred ninety-eight dollars;

(2) In townships having a budget of more than two hundred fifty thousand but not more than five hundred thousand dollars, thirteen thousand three hundred seventy dollars;

(3) In townships having a budget of more than five hundred thousand but not more than seven hundred fifty thousand dollars, fourteen thousand eight hundred fifty-four dollars;

(4) In townships having a budget of more than seven hundred fifty thousand but not more than one million five hundred thousand dollars, seventeen thousand eight hundred twenty-six dollars;

(5) In townships having a budget of more than one million five hundred thousand but not more than three million five hundred thousand dollars, twenty thousand seven hundred ninety-six dollars;

(6) In townships having a budget of more than three million five hundred thousand but not more than six million dollars, twenty-two thousand two hundred eighty-two dollars;

(7) In townships having a budget of more than six million but not more than ten million dollars, twenty-five thousand five hundred seventy-three dollars;

(8) In townships having a budget of more than ten million dollars, twenty-nine thousand five hundred eighty-five dollars.

(B) In calendar year 2017, the compensation determined under division (A) of this section shall be increased by five per cent.

(C) In calendar year 2018 and thereafter, the township fiscal officer shall be entitled to the

compensation determined under division (B) of this section.

(D) Any township fiscal officer may elect to receive less than the compensation the fiscal officer is entitled to under this section. Any township fiscal officer electing to do this shall so notify the board of township trustees in writing, and the board shall include this notice in the minutes of its next board meeting.

(E) The compensation of the township fiscal officer shall be paid in equal monthly payments. If the office of township fiscal officer is held by more than one person during any calendar year, each person holding the office shall receive payments for only those months, and any fractions of those months, during which the person holds the office.

A township fiscal officer may be compensated from the township general fund or from other township funds based on the proportion of time the township fiscal officer spends providing services related to each fund. A township fiscal officer must document the amount of time the township fiscal officer spends providing services related to each fund by certification specifying the percentage of time spent working on matters to be paid from the township general fund or from other township funds in such proportions as the kinds of services performed.

**Sec. 507.11.** (A) The board of township trustees may authorize, by resolution, township officers and employees to incur obligations of two thousand five hundred dollars or less on behalf of the township, or it may authorize, by resolution, the township administrator to so authorize township officers and employees. The obligations incurred on behalf of the township by a township officer or employee acting pursuant to any such resolution shall be subsequently approved by the adoption of a formal resolution of the board of township trustees.

(B)(1) No money belonging to the township shall be paid out, except upon an order signed by at least two of the township trustees, and countersigned by the township fiscal officer.

(2) As provided in division (E) of section 9.37 of the Revised Code, and notwithstanding division (B)(1) of this section, a board of township trustees may adopt a resolution authorizing the payment of lawful obligations of the township by direct deposit of funds by electronic transfer in accordance with section 9.37 of the Revised Code.

**Sec. 517.07.** Upon application, the board of township trustees shall sell at a reasonable price the number of lots as public wants demand for burial purposes. Purchasers of lots or other interment rights, upon complying with the terms of sale, may receive deeds for the lots or rights which the board shall execute and which shall be recorded by the township fiscal officer in a book for that purpose. The expense of recording shall be paid by the person receiving the deed. Upon the application of a head of a family living in the township, the board shall, without charge, make and deliver to the applicant a deed for a suitable lot or right for the interment of the applicant's family, if, in the opinion of the board and by reason of the circumstances of the family, the payment would be oppressive.

The terms of sale and any deed for lots executed after July 24, 1986, for an entombment, including a mausoleum, columbarium, or other interment right executed on or after September 29, 2015, may include the following requirements:

(A) The grantee shall provide to the board of township trustees, in writing, a list of the names and addresses of the persons to whom the grantee's property would pass by intestate succession.

(B) The grantee shall notify the board in writing of any subsequent changes in the name or

address of any persons to whom property would descend.

(C) Any person who receives a township cemetery lot or right by gift, inheritance, or any other means other than the original conveyance shall, within one year after receiving the interest, give written notice of the person's name and address to the board having control of the cemetery, and shall notify the board of any subsequent changes in the person's name or address.

The terms of sale and any deed for any lots or rights executed in compliance with the notification requirements set forth in divisions (A), (B), and (C) of this section shall state that the board of township trustees shall have right of reentry to the cemetery lot or right if the notification requirements are not met. At least ninety days before establishing reentry, the board shall send a notice by certified mail to the last known owner at the owner's last known address to inform the owner that the owner's interest in the lot or right will cease unless the notification requirements are met. If the owner's address is unknown and cannot reasonably be obtained, it is sufficient to publish the notice once in a newspaper of general circulation in the county. In order to establish reentry, the board shall pass a resolution stating that the conditions of the sale or of the deed have not been fulfilled, and that the board reclaims its interest in the lot or right.

The board may limit the terms of sale or the deed for a cemetery lot or right by specifying that the owner, a member of the owner's family, or an owner's descendant must use the lot, tomb, including a mausoleum, or columbarium, or at least a portion of the lot, tomb, including a mausoleum, or columbarium, within a specified time period. The board may specify this time period to be at least twenty but not more than fifty years, with right of renewal provided at no cost. At least ninety days prior to the termination date for use of the cemetery lot, tomb, including a mausoleum, or columbarium, the board shall send a notice to the owner to inform the owner that the owner's interest in the lot or right will cease on the termination date unless the owner contracts for renewal by that date. The board shall send the notice by certified mail to the owner if the owner is a resident of the township or is a nonresident whose address is known. If the owner's address is unknown and cannot reasonably be obtained, it is sufficient to publish the notice once in a newspaper of general circulation in the county.

The terms of sale and any deed for lots or rights conveyed with a termination date shall state that the board shall have right of reentry to the lot or right at the end of the specified time period if the lot, tomb, including a mausoleum, or columbarium, is not used within this time period or renewed for an extended period. In order to establish reentry, the board shall pass a resolution stating that the conditions of the sale or of the deed have not been fulfilled, and that the board reclaims its interest in the lot or right. The board shall compensate owners of unused lots or rights who do not renew the terms of sale or the deed by paying the owner eighty per cent of the purchase price. The board may repurchase any cemetery lot or right from its owner at any time at a price that is mutually agreed upon by the board and the owner.

**Sec. 517.073.**

**Sec. 517.15.** A board of township trustees may create a permanent cemetery endowment fund for the purpose of maintaining, improving, and beautifying township cemeteries and burial lots in township cemeteries. The fund shall consist of money arising from the following sources:

(A) Gifts, devises, or bequests received for the purpose of maintaining, improving, or beautifying township cemeteries;



(B) Charges added to the price regularly charged for burial lots for the purpose of maintaining, improving, or beautifying township cemeteries;

(C) Contributions of money from the township general fund;

(D) An individual agreement with the purchaser of a burial lot providing that a part of the purchase price is to be applied to the purpose of maintaining, improving, or beautifying any burial lot designated and named by the purchaser;

(E) Individual gifts, devises, or bequests made for the maintenance, improvement, and beautification of any burial lot designated and named by the person making the gift, devise, or bequest.

Upon unanimous consent of the board of trustees, the board may use the principal of the fund if the board is unable to maintain, improve, and beautify township cemeteries using only the income from the fund.

**Sec. 715.014.**

**Sec. 717.01.** Each municipal corporation may do any of the following:

(A) Acquire by purchase or condemnation real estate with or without buildings on it, and easements or interests in real estate;

(B) Extend, enlarge, reconstruct, repair, equip, furnish, or improve a building or improvement that it is authorized to acquire or construct;

(C) Erect a crematory or provide other means for disposing of garbage or refuse, and erect public comfort stations;

(D) Purchase turnpike roads and make them free;

(E) Construct wharves and landings on navigable waters;

(F) Construct infirmaries, workhouses, prisons, police stations, houses of refuge and correction, market houses, public halls, public offices, municipal garages, repair shops, storage houses, and warehouses;

(G) Construct or acquire waterworks for supplying water to the municipal corporation and its inhabitants and extend the waterworks system outside of the municipal corporation limits;

(H) Construct or purchase gas works or works for the generation and transmission of electricity, for the supplying of gas or electricity to the municipal corporation and its inhabitants;

(I) Provide grounds for cemeteries or crematories, enclose and embellish them, and construct vaults or crematories;

(J) Construct sewers, sewage disposal works, flushing tunnels, drains, and ditches;

(K) Construct free public libraries and reading rooms, and free recreation centers;

(L) Establish free public baths and municipal lodging houses;

(M) Construct monuments or memorial buildings to commemorate the services of soldiers, sailors, and marines of the state and nation;

(N) Provide land for and improve parks, boulevards, and public playgrounds;

(O) Construct hospitals and pesthouses;

(P) Open, construct, widen, extend, improve, resurface, or change the line of any street or public highway;

(Q) Construct and improve levees, dams, waterways, waterfronts, and embankments and improve any watercourse passing through the municipal corporation;

(R) Construct or improve viaducts, bridges, and culverts;

(S)(1) Construct any building necessary for the police or fire department;

(2) Purchase fire engines or fire boats;

(3) Construct water towers or fire cisterns;

(4) Place underground the wires or signal apparatus of any police or fire department.

(T) Construct any municipal ice plant for the purpose of manufacturing ice for the citizens of a municipal corporation;

(U) Construct subways under any street or boulevard or elsewhere;

(V) Acquire by purchase, gift, devise, bequest, lease, condemnation proceedings, or otherwise, real or personal property, and thereon and thereof to establish, construct, enlarge, improve, equip, maintain, and operate airports, landing fields, or other air navigation facilities, either within or outside the limits of a municipal corporation, and acquire by purchase, gift, devise, lease, or condemnation proceedings rights-of-way for connections with highways, waterways, and electric, steam, and interurban railroads, and improve and equip such facilities with structures necessary or appropriate for such purposes. No municipal corporation may take or disturb property or facilities belonging to any public utility or to a common carrier engaged in interstate commerce, which property or facilities are required for the proper and convenient operation of the utility or carrier, unless provision is made for the restoration, relocation, or duplication of the property or facilities elsewhere at the sole cost of the municipal corporation.

(W) Provide by agreement with any regional airport authority, created under section 308.03 of the Revised Code, for the making of necessary surveys, appraisals, and examinations preliminary to the acquisition or construction of any airport or airport facility and pay the portion of the expense of the surveys, appraisals, and examinations as set forth in the agreement;

(X) Provide by agreement with any regional airport authority, created under section 308.03 of the Revised Code, for the acquisition, construction, maintenance, or operation of any airport or airport facility owned or to be owned and operated by the regional airport authority or owned or to be owned and operated by the municipal corporation and pay the portion of the expense of it as set forth in the agreement;

(Y) Acquire by gift, purchase, lease, or condemnation, land, forest, and water rights necessary for conservation of forest reserves, water parks, or reservoirs, either within or without the limits of the municipal corporation, and improve and equip the forest and water parks with structures, equipment, and reforestation necessary or appropriate for any purpose for the utilization of any of the forest and water benefits that may properly accrue therefrom to the municipal corporation;

(Z) Acquire real property by purchase, gift, or devise and construct and maintain on it public swimming pools, either within or outside the limits of the municipal corporation;

(AA) Construct or rehabilitate, equip, maintain, operate, and lease facilities for housing of elderly persons and for persons of low and moderate income, and appurtenant facilities. No municipal corporation shall deny housing accommodations to or withhold housing accommodations from elderly persons or persons of low and moderate income because of race, color, religion, sex, familial status as defined in section 4112.01 of the Revised Code, military status as defined in that section, disability as defined in that section, ancestry, or national origin. Any elderly person or person of low or moderate income who is denied housing accommodations or has them withheld by a

municipal corporation because of race, color, religion, sex, familial status as defined in section 4112.01 of the Revised Code, military status as defined in that section, disability as defined in that section, ancestry, or national origin may file a charge with the Ohio civil rights commission as provided in Chapter 4112. of the Revised Code.

(BB) Acquire, rehabilitate, and develop rail property or rail service, and enter into agreements with the Ohio rail development commission, boards of county commissioners, boards of township trustees, legislative authorities of other municipal corporations, with other governmental agencies or organizations, and with private agencies or organizations in order to achieve those purposes;

(CC) Appropriate and contribute money to a soil and water conservation district for use under Chapter 940. of the Revised Code;

(DD) Authorize the board of county commissioners, pursuant to a contract authorizing the action, to contract on the municipal corporation's behalf for the administration and enforcement within its jurisdiction of the state building code by another county or another municipal corporation located within or outside the county. The contract for administration and enforcement shall provide for obtaining certification pursuant to division (E) of section 3781.10 of the Revised Code for the exercise of administration and enforcement authority within the municipal corporation seeking those services and shall specify which political subdivision is responsible for securing that certification.

(EE) Expend money for providing and maintaining services and facilities for senior citizens.

"Airport," "landing field," and "air navigation facility," as defined in section 4561.01 of the Revised Code, apply to division (V) of this section.

As used in divisions (W) and (X) of this section, "airport" and "airport facility" have the same meanings as in section 308.01 of the Revised Code.

As used in division (BB) of this section, "rail property" and "rail service" have the same meanings as in section 4981.01 of the Revised Code.

**Sec. 718.01.** Any term used in this chapter that is not otherwise defined in this chapter has the same meaning as when used in a comparable context in laws of the United States relating to federal income taxation or in Title LVII of the Revised Code, unless a different meaning is clearly required. Except as provided in section 718.81 of the Revised Code, if a term used in this chapter that is not otherwise defined in this chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the Revised Code and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in Title LVII of the Revised Code.

Except as otherwise provided in section 718.81 of the Revised Code, as used in this chapter:

(A)(1) "Municipal taxable income" means the following:

(a) For a person other than an individual, income apportioned or sitused to the municipal corporation under section 718.02 of the Revised Code, as applicable, reduced by any pre-2017 net operating loss carryforward available to the person for the municipal corporation.

(b)(i) For an individual who is a resident of a municipal corporation other than a qualified municipal corporation, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (A)(2) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the municipal corporation.

(ii) For an individual who is a resident of a qualified municipal corporation, Ohio adjusted

gross income reduced by income exempted, and increased by deductions excluded, by the qualified municipal corporation from the qualified municipal corporation's tax. If a qualified municipal corporation, on or before December 31, 2013, exempts income earned by individuals who are not residents of the qualified municipal corporation and net profit of persons that are not wholly located within the qualified municipal corporation, such individual or person shall have no municipal taxable income for the purposes of the tax levied by the qualified municipal corporation and may be exempted by the qualified municipal corporation from the requirements of section 718.03 of the Revised Code.

(c) For an individual who is a nonresident of a municipal corporation, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the municipal corporation under section 718.02 of the Revised Code, then reduced as provided in division (A)(2) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the municipal corporation.

(2) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (A)(1)(b)(i) or (c) of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation.

(B) "Income" means the following:

(1)(a) For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in division (D)(5) of this section.

(b) For the purposes of division (B)(1)(a) of this section:

(i) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (B)(1)(d) of this section;

(ii) The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.

(c) Division (B)(1)(b) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' distributive shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division (C)(14)(b) or (c) of this section.

(d) Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.

(2) In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the municipal corporation, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.

(3) For taxpayers that are not individuals, net profit of the taxpayer;

(4) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings.

(C) "Exempt income" means all of the following:

(1) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state;

(2)(a) Except as provided in division (C)(2)(b) of this section, intangible income;

(b) A municipal corporation that taxed any type of intangible income on March 29, 1988, pursuant to Section 3 of S.B. 238 of the 116th general assembly, may continue to tax that type of income if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 voted in favor thereof at an election held on November 8, 1988.

(3) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (C)(3) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in section 3402(o)(2) of the Internal Revenue Code.

(4) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.

(5) Compensation paid under section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars for the taxable year. Such compensation in excess of one thousand dollars for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.

(6) Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations;

- (7) Alimony and child support received;
- (8) Compensation for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or compensation from punitive damages;
- (9) Income of a public utility when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Revised Code. Division (C)(9) of this section does not apply for purposes of Chapter 5745. of the Revised Code.
- (10) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate during the period of administration except such income from the operation of a trade or business;
- (11) Compensation or allowances excluded from federal gross income under section 107 of the Internal Revenue Code;
- (12) Employee compensation that is not qualifying wages as defined in division (R) of this section;
- (13) Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile.
- (14)(a) Except as provided in division (C)(14)(b) or (c) of this section, an S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code.
- (b) If, pursuant to division (H) of former section 718.01 of the Revised Code as it existed before March 11, 2004, a majority of the electors of a municipal corporation voted in favor of the question at an election held on November 4, 2003, the municipal corporation may continue after 2002 to tax an S corporation shareholder's distributive share of net profits of an S corporation.
- (c) If, on December 6, 2002, a municipal corporation was imposing, assessing, and collecting a tax on an S corporation shareholder's distributive share of net profits of the S corporation to the extent the distributive share would be allocated or apportioned to this state under divisions (B)(1) and (2) of section 5733.05 of the Revised Code if the S corporation were a corporation subject to taxes imposed under Chapter 5733. of the Revised Code, the municipal corporation may continue to impose the tax on such distributive shares to the extent such shares would be so allocated or apportioned to this state only until December 31, 2004, unless a majority of the electors of the municipal corporation voting on the question of continuing to tax such shares after that date voted in favor of that question at an election held November 2, 2004. If a majority of those electors voted in favor of the question, the municipal corporation may continue after December 31, 2004, to impose the tax on such distributive shares only to the extent such shares would be so allocated or apportioned to this state.

(d) A municipal corporation shall be deemed to have elected to tax S corporation shareholders' distributive shares of net profits of the S corporation in the hands of the shareholders if a majority of the electors of a municipal corporation voted in favor of a question at an election held under division (C)(14)(b) or (c) of this section. The municipal corporation shall specify by resolution or ordinance that the tax applies to the distributive share of a shareholder of an S corporation in the hands of the shareholder of the S corporation.

(15) To the extent authorized under a resolution or ordinance adopted by a municipal corporation before January 1, 2016, all or a portion of the income of individuals or a class of individuals under eighteen years of age.

(16)(a) Except as provided in divisions (C)(16)(b), (c), and (d) of this section, qualifying wages described in division (B)(1) or (E) of section 718.011 of the Revised Code to the extent the qualifying wages are not subject to withholding for the municipal corporation under either of those divisions.

(b) The exemption provided in division (C)(16)(a) of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.

(c) The exemption provided in division (C)(16)(a) of this section does not apply to qualifying wages that an employer elects to withhold under division (D)(2) of section 718.011 of the Revised Code.

(d) The exemption provided in division (C)(16)(a) of this section does not apply to qualifying wages if both of the following conditions apply:

(i) For qualifying wages described in division (B)(1) of section 718.011 of the Revised Code, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in division (E) of section 718.011 of the Revised Code, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;

(ii) The employee receives a refund of the tax described in division (C)(16)(d)(i) of this section on the basis of the employee not performing services in that municipal corporation.

(17)(a) Except as provided in division (C)(17)(b) or (c) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the municipal corporation on not more than twenty days in a taxable year.

(b) The exemption provided in division (C)(17)(a) of this section does not apply under either of the following circumstances:

(i) The individual's base of operation is located in the municipal corporation.

(ii) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (C)(17)(b)(ii) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in section 718.011 of the Revised Code.

(c) Compensation to which division (C)(17) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation,

the compensation shall be treated as earned or received where the individual is domiciled.

(d) For purposes of division (C)(17) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.

(18) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to section 709.023 of the Revised Code on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.

(19) In the case of a tax administered, collected, and enforced by a municipal corporation pursuant to an agreement with the board of directors of a joint economic development district under section 715.72 of the Revised Code, the net profits of a business, and the income of the employees of that business, exempted from the tax under division (Q) of that section.

(20) Income the taxation of which is prohibited by the constitution or laws of the United States.

Any item of income that is exempt income of a pass-through entity under division (C) of this section is exempt income of each owner of the pass-through entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.

(D)(1) "Net profit" for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of division (D)(1) of this section, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (D)(3) of this section.

(2) "Net profit" for a person other than an individual means adjusted federal taxable income reduced by any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017, subject to the limitations of division (D)(3) of this section.

(3)(a) The amount of such net operating loss shall be deducted from net profit to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.

(b) No person shall use the deduction allowed by division (D)(3) of this section to offset qualifying wages.

(c)(i) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty per cent of the amount of the deduction otherwise allowed by division (D)(3) of this section.

(ii) For taxable years beginning in 2023 or thereafter, a person may deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the



full amount allowed by division (D)(3) of this section without regard to the limitation of division (D)(3)(b)(i) of this section.

(d) Any pre-2017 net operating loss carryforward deduction that is available may be utilized before a taxpayer may deduct any amount pursuant to division (D)(3) of this section.

(e) Nothing in division (D)(3)(c)(i) of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (D)(3)(c)(i) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (D)(3)(c)(i) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (D)(3)(c)(i) of this section shall apply to the amount carried forward.

(4) For the purposes of this chapter, and notwithstanding division (D)(2) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.

(5) For the purposes of this chapter, and notwithstanding any other provision of this chapter, the net profit of a publicly traded partnership that makes the election described in division (D)(5) of this section shall be taxed as if the partnership were a C corporation, and shall not be treated as the net profit or income of any owner of the partnership.

A publicly traded partnership that is treated as a partnership for federal income tax purposes and that is subject to tax on its net profits in one or more municipal corporations in this state may elect to be treated as a C corporation for municipal income tax purposes. The publicly traded partnership shall make the election in every municipal corporation in which the partnership is subject to taxation on its net profits. The election shall be made on the annual tax return filed in each such municipal corporation. The publicly traded partnership shall not be required to file the election with any municipal corporation in which the partnership is not subject to taxation on its net profits, but division (D)(5) of this section applies to all municipal corporations in which an individual owner of the partnership resides.

(E) "Adjusted federal taxable income," for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under division (D)(5) of this section, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(1) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

(2) Add an amount equal to five per cent of intangible income deducted under division (E)(1) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;

(3) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(4)(a) Except as provided in division (E)(4)(b) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale,

exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(b) Division (E)(4)(a) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

(5) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;

(6) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;

(7) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Revised Code;

(8) Deduct exempt income to the extent not otherwise deducted or excluded in computing adjusted federal taxable income.

(9) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (E)(3)(b) of section 718.06 of the Revised Code.

(10) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (E)(3)(b) of section 718.06 of the Revised Code.

If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in division (L)(2) of this section, is not a publicly traded partnership that has made the election described in division (D)(5) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

Nothing in division (E) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

(F) "Schedule C" means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(G) "Schedule E" means internal revenue service schedule E (form 1040) filed by a taxpayer

pursuant to the Internal Revenue Code.

(H) "Schedule F" means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(I) "Internal Revenue Code" has the same meaning as in section 5747.01 of the Revised Code.

(J) "Resident" means an individual who is domiciled in the municipal corporation as determined under section 718.012 of the Revised Code.

(K) "Nonresident" means an individual that is not a resident.

(L)(1) "Taxpayer" means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (L)(2)(a) of this section, a disregarded entity.

(2)(a) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:

(i) The limited liability company's single member is also a limited liability company.

(ii) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.

(iii) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (L) of this section as this section existed on December 31, 2004.

(iv) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.

(v) The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.

(b) For purposes of division (L)(2)(a)(v) of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least four hundred thousand dollars.

(M) "Person" includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.

(N) "Pass-through entity" means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.

(O) "S corporation" means a person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

(P) "Single member limited liability company" means a limited liability company that has

one direct member.

(Q) "Limited liability company" means a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of another state.

(R) "Qualifying wages" means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

(1) Deduct the following amounts:

(a) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.

(b) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.

(c) Any amount attributable to a nonqualified deferred compensation plan or program described in section 3121(v)(2)(C) of the Internal Revenue Code if the compensation is included in wages and the municipal corporation has, by resolution or ordinance adopted before January 1, 2016, exempted the amount from withholding and tax.

(d) Any amount included in wages if the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option and the municipal corporation has, by resolution or ordinance adopted before January 1, 2016, exempted the amount from withholding and tax.

(e) Any amount included in wages that is exempt income.

(2) Add the following amounts:

(a) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.

(b) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option and the municipal corporation has not, by resolution or ordinance, exempted the amount from withholding and tax adopted before January 1, 2016. Division (R)(2)(b) of this section applies only to those amounts constituting ordinary income.

(c) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (R)(2)(c) of this section applies only to employee contributions and employee deferrals.

(d) Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.

(e) Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a)(8) of the Internal Revenue Code.

(f) Any amount not included in wages if all of the following apply:

(i) For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under section 911 of the Internal Revenue Code;

(ii) For no preceding taxable year did the amount constitute wages as defined in section 3121(a) of the Internal Revenue Code;

(iii) For no succeeding taxable year will the amount constitute wages; and

(iv) For any taxable year the amount has not otherwise been added to wages pursuant to either division (R)(2) of this section or section 718.03 of the Revised Code, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.

(S) "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. of the Revised Code, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.

(T) "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(U) "Tax administrator" means the individual charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this chapter, and also includes the following:

(1) A municipal corporation acting as the agent of another municipal corporation;

(2) A person retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis;

(3) The central collection agency or the regional income tax agency or their successors in interest, or another entity organized to perform functions similar to those performed by the central collection agency and the regional income tax agency.

"Tax administrator" does not include the tax commissioner.

(V) "Employer" means a person that is an employer for federal income tax purposes.

(W) "Employee" means an individual who is an employee for federal income tax purposes.

(X) "Other payer" means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.

(Y) "Calendar quarter" means the three-month period ending on the last day of March, June, September, or December.

(Z) "Form 2106" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

(AA) "Municipal corporation" includes a joint economic development district or joint economic development zone that levies an income tax under section 715.691, 715.70, 715.71, or 715.72 of the Revised Code.

(BB) "Disregarded entity" means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.

(CC) "Generic form" means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an

employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability or for filing a refund claim.

(DD) "Tax return preparer" means any individual described in section 7701(a)(36) of the Internal Revenue Code and 26 C.F.R. 301.7701-15.

(EE) "Ohio business gateway" means the online computer network system, created under section 125.30 of the Revised Code, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.

(FF) "Local board of tax review" and "board of tax review" mean the entity created under section 718.11 of the Revised Code.

(GG) "Net operating loss" means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.

(HH) "Casino operator" and "casino facility" have the same meanings as in section 3772.01 of the Revised Code.

(II) "Video lottery terminal" has the same meaning as in section 3770.21 of the Revised Code.

(JJ) "Video lottery terminal sales agent" means a lottery sales agent licensed under Chapter 3770. of the Revised Code to conduct video lottery terminals on behalf of the state pursuant to section 3770.21 of the Revised Code.

(KK) "Postal service" means the United States postal service.

(LL) "Certified mail," "express mail," "United States mail," "postal service," and similar terms include any delivery service authorized pursuant to section 5703.056 of the Revised Code.

(MM) "Postmark date," "date of postmark," and similar terms include the date recorded and marked in the manner described in division (B)(3) of section 5703.056 of the Revised Code.

(NN) "Related member" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty per cent" shall be substituted for "5 percent" wherever "5 percent" appears in section 1563(e) of the Internal Revenue Code.

(OO) "Related entity" means any of the following:

(1) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(2) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(3) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under

division (OO)(4) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock;

(4) The attribution rules described in section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (OO)(1) to (3) of this section have been met.

(PP)(1) "Assessment" means a written finding by the tax administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation that commences the person's time limitation for making an appeal to the local board of tax review pursuant to section 718.11 of the Revised Code, and has "ASSESSMENT" written in all capital letters at the top of such finding.

(2) "Assessment" does not include an informal notice denying a request for refund issued under division (B)(3) of section 718.19 of the Revised Code, a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a tax administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a tax administrator's other written correspondence to a person or taxpayer that does meet the criteria prescribed by division (PP)(1) of this section.

(QQ) "Taxpayers' rights and responsibilities" means the rights provided to taxpayers in sections 718.11, 718.12, 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the Revised Code and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718. of the Revised Code and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.

(RR) "Qualified municipal corporation" means a municipal corporation that, by resolution or ordinance adopted on or before December 31, 2011, adopted Ohio adjusted gross income, as defined by section 5747.01 of the Revised Code, as the income subject to tax for the purposes of imposing a municipal income tax.

(SS)(1) "Pre-2017 net operating loss carryforward" means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the municipal corporation that was adopted by the municipal corporation before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in such municipal corporation in future taxable years.

(2) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.

(TT) "Small employer" means any employer that had total revenue of less than five hundred thousand dollars during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; compensation; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants

and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.

(UU) "Audit" means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person for the purpose of determining liability for a municipal income tax.

(VV) "Publicly traded partnership" means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.

(WW) "Tax commissioner" means the tax commissioner appointed under section 121.03 of the Revised Code.

**Sec. 718.04.** (A) Notwithstanding division (A) of section 715.013 of the Revised Code, a municipal corporation may levy a tax on income and a withholding tax if such taxes are levied in accordance with the provisions and limitations specified in this chapter. On or after January 1, 2016, the ordinance or resolution levying such taxes, as adopted or amended by the legislative authority of the municipal corporation, shall include all of the following:

(1) A statement that the tax is an annual tax levied on the income of every person residing in or earning or receiving income in the municipal corporation and that the tax shall be measured by municipal taxable income;

(2) A statement that the municipal corporation is levying the tax in accordance with the limitations specified in this chapter and that the resolution or ordinance thereby incorporates the provisions of this chapter;

(3) The rate of the tax;

(4) Whether, and the extent to which, a credit, as described in division (D) of this section, will be allowed against the tax;

(5) The purpose or purposes of the tax;

(6) Any other provision necessary for the administration of the tax, provided that the provision does not conflict with any provision of this chapter.

(B) Any municipal corporation that, on or before March 23, 2015, levies an income tax at a rate in excess of one per cent may continue to levy the tax at the rate specified in the original ordinance or resolution, provided that such rate continues in effect as specified in the original ordinance or resolution.

(C)(1) No municipal corporation shall tax income at other than a uniform rate.

(2) Except as provided in division (B) of this section, no municipal corporation shall levy a tax on income at a rate in excess of one per cent without having obtained the approval of the excess by a majority of the electors of the municipality voting on the question at a general, primary, or special election. The legislative authority of the municipal corporation shall file with the board of elections at least ninety days before the day of the election a copy of the ordinance together with a resolution specifying the date the election is to be held and directing the board of elections to conduct the election. The ballot shall be in the following form: "Shall the Ordinance providing for a... per cent levy on income for (Brief description of the purpose of the proposed levy) be passed?"



FOR THE INCOME TAX
AGAINST THE INCOME TAX

"

In the event of an affirmative vote, the proceeds of the levy may be used only for the specified purpose.

(D) A municipal corporation may, by ordinance or resolution, grant a credit to residents of the municipal corporation for all or a portion of the taxes paid to any municipal corporation, in this state or elsewhere, by the resident or by a pass-through entity owned, directly or indirectly, by a resident, on the resident's distributive or proportionate share of the income of the pass-through entity. A municipal corporation is not required to refund taxes not paid to the municipal corporation.

(E) Except as otherwise provided in this chapter, a municipal corporation that levies an income tax in effect for taxable years beginning before January 1, 2016, may continue to administer and enforce the provisions of such tax for all taxable years beginning before January 1, 2016, provided that the provisions of such tax are consistent with this chapter as it existed prior to March 23, 2015.

(F) Nothing in this chapter authorizes a municipal corporation to levy a tax on income, or to administer or collect such a tax or penalties or interest related to such a tax, contrary to the provisions and limitations specified in this chapter. No municipal corporation shall enforce an ordinance or resolution that conflicts with the provisions of this chapter.

(G)(1) Division (G) of this section applies to a municipal corporation that, at the time of entering into a written agreement under division (G)(2) of this section, shares the same territory as a city, local, or exempted village school district, to the extent that not more than thirty per cent of the territory of the municipal corporation is located outside the school district and a portion of the territory of the school district that is not located within the municipal corporation is located within another municipal corporation having a population of four hundred thousand or more according to the federal decennial census most recently completed before the agreement is entered into under division (G)(2) of this section.

(2) The legislative authority of a municipal corporation to which division (G) of this section applies may propose to the electors an income tax, one of the purposes of which shall be to provide financial assistance to the school district described in division (G)(1) of this section. Prior to proposing the tax, the legislative authority shall negotiate and enter into a written agreement with the board of education of that school district specifying the tax rate; the percentage or amount of tax revenue to be paid to the school district or the method of establishing or determining that percentage or amount, which may be subject to change periodically; the purpose for which the school district will use the money; the first year the tax will be levied; the date of the election on the question of the tax; and the method and schedule by which, and the conditions under which, the municipal corporation will make payments to the school district. The tax shall otherwise comply with the provisions and limitations specified in this chapter.

**Sec. 718.05.** (A) An annual return with respect to the income tax levied by a municipal corporation shall be completed and filed by every taxpayer for any taxable year for which the

taxpayer is liable for the tax. If the total credit allowed against the tax as described in division (D) of section 718.04 of the Revised Code for the year is equal to or exceeds the tax imposed by the municipal corporation, no return shall be required unless the municipal ordinance or resolution levying the tax requires the filing of a return in such circumstances.

(B) If an individual is deceased, any return or notice required of that individual shall be completed and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

(C) If an individual is unable to complete and file a return or notice required by a municipal corporation in accordance with this chapter, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual.

(D) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust.

(E) No municipal corporation shall deny spouses the ability to file a joint return.

(F)(1) Each return required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's social security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.

(2) A tax administrator may require a taxpayer who is an individual to include, with each annual return, amended return, or request for refund required under this section, copies of only the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040 or, in the case of a return or request required by a qualified municipal corporation, Ohio form IT-1040; and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the tax administrator unless the tax administrator requests such copies after the return has been filed.

(3) A tax administrator may require a taxpayer that is not an individual to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.

A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio business gateway or in some other manner shall either mail the documents required under this division to the tax administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio business gateway. The department of taxation shall publish a method of electronically submitting the documents required under this division through the Ohio business gateway on or before January 1, 2016. The department shall transmit all documents submitted electronically under this division to the appropriate tax

administrator.

(4) After a taxpayer files a tax return, the tax administrator may request, and the taxpayer shall provide, any information, statements, or documents required by the municipal corporation to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division (F) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the tax administrator.

(G)(1)(a) Except as otherwise provided in this chapter, each individual income tax return required to be filed under this section shall be completed and filed as required by the tax administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of section 5747.08 of the Revised Code. The taxpayer shall complete and file the return or notice on forms prescribed by the tax administrator or on generic forms, together with remittance made payable to the municipal corporation or tax administrator. No remittance is required if the amount shown to be due is ten dollars or less.

(b) Except as otherwise provided in this chapter, each annual net profit return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the tax administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year. The taxpayer shall complete and file the return or notice on forms prescribed by the tax administrator or on generic forms, together with remittance made payable to the municipal corporation or tax administrator. No remittance is required if the amount shown to be due is ten dollars or less.

(2)(a) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates.

(b) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the tax administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return. If the request is received by the tax administrator on or before the date the municipal income tax return is due, the tax administrator shall grant the taxpayer's requested extension.

(c) An extension of time to file under division (G)(2) of this section is not an extension of the time to pay any tax due unless the tax administrator grants an extension of that date.

(3) If the tax commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of section 5747.08 of the Revised Code, a taxpayer shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as the extended due date of the state income tax return.

(4) If the tax administrator considers it necessary in order to ensure the payment of the tax imposed by the municipal corporation in accordance with this chapter, the tax administrator may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.

(5) To the extent that any provision in this division conflicts with any provision in section 718.052 of the Revised Code, the provision in that section prevails.

(H)(1) For taxable years beginning after 2015, a municipal corporation shall not require a

taxpayer to remit tax with respect to net profits if the amount due is less than ten dollars.

(2) Any taxpayer not required to remit tax to a municipal corporation for a taxable year pursuant to division (H)(1) of this section shall file with the municipal corporation an annual net profit return under division (F)(3) of this section.

(I)(1) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that date by United States mail to the tax administrator or other municipal official with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

(2) If a payment under this chapter is made by electronic funds transfer, the payment shall be considered to be made on the date of the timestamp assigned by the first electronic system receiving that payment.

(J) The amounts withheld by an employer, the agent of an employer, or an other payer as described in section 718.03 of the Revised Code shall be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient by the municipal corporation, unless the amounts withheld were not remitted to the municipal corporation and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.

(K) Each return required by a municipal corporation to be filed in accordance with this section shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the tax administrator about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the tax administrator to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer or other person only to provide the tax administrator with information that is missing from the return, to contact the tax administrator for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the tax administrator and has shown to the preparer or other person.

(L) The tax administrator of a municipal corporation shall accept for filing a generic form of any income tax return, report, or document required by the municipal corporation in accordance with this chapter, provided that the generic form, once completed and filed, contains all of the information required by ordinance, resolution, or rules adopted by the municipal corporation or tax administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this chapter and of the municipal corporation ordinance or resolution governing the filing of returns, reports, or documents.

(M) When income tax returns, reports, or other documents require the signature of a tax return preparer, the tax administrator shall accept a facsimile of such a signature in lieu of a manual signature.

(N)(1) As used in this division, "worksite location" has the same meaning as in section

718.011 of the Revised Code.

(2) A person may notify a tax administrator that the person does not expect to be a taxpayer with respect to the municipal corporation for a taxable year if both of the following conditions apply:

(a) The person was required to file a tax return with the municipal corporation for the immediately preceding taxable year because the person performed services at a worksite location within that municipal corporation.

(b) The person no longer provides services in the municipal corporation and does not expect to be subject to the municipal corporation's income tax for the taxable year.

The person shall provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksite location and the last date on which the person performed services or made any sales within the municipal corporation. The affidavit also shall include the following statement: "The affiant has no plans to perform any services within the municipal corporation, make any sales in the municipal corporation, or otherwise become subject to the tax levied by the municipal corporation during the taxable year. If the affiant does become subject to the tax levied by the municipal corporation for the taxable year, the affiant agrees to be considered a taxpayer and to properly register as a taxpayer with the municipal corporation if such a registration is required by the municipal corporation's resolutions, ordinances, or rules." The person shall sign the affidavit under penalty of perjury.

(c) If a person submits an affidavit described in division (N)(2) of this section, the tax administrator shall not require the person to file any tax return for the taxable year unless the tax administrator possesses information that conflicts with the affidavit or if the circumstances described in the affidavit change. Nothing in division (N) of this section prohibits the tax administrator from performing an audit of the person.

**Sec. 718.07.** The tax administrator of a municipal corporation that imposes a tax on income in accordance with this chapter shall make electronic versions of any rules or ordinances governing the tax available to the public through the internet, including, but not limited to, ordinances or rules governing the rate of tax; payment and withholding of taxes; filing any prescribed returns, reports, or other documents; dates for filing or paying taxes, including estimated taxes; penalties, interest, assessment, and other collection remedies; rights of taxpayers to appeal; procedures for filing appeals; and a summary of taxpayers' rights and responsibilities. The tax administrator shall make blanks of any prescribed returns, reports, or documents, and any instructions pertaining thereto, available to the public electronically through the internet. Electronic versions of rules, ordinances, blanks, and instructions shall be made available by posting them on the electronic site established by the tax commissioner under section 5703.49 of the Revised Code and, if the municipal corporation or tax administrator maintains an electronic site for the posting of such documents that is accessible through the internet, by posting them on that electronic site. If a municipal corporation or tax administrator establishes such an electronic site, the municipal corporation shall incorporate an electronic link between that site and the site established pursuant to section 5703.49 of the Revised Code, and shall provide to the tax commissioner the uniform resource locator of the site established pursuant to this division.

**Sec. 718.37.** (A) A taxpayer aggrieved by an action or omission of a tax administrator, a tax administrator's employee, or an employee of the municipal corporation may bring an action against

the municipal corporation for damages in the court of common pleas of the county in which the municipal corporation is located, if all of the following apply:

(1) In the action or omission the tax administrator, the tax administrator's employee, or the employee of the municipal corporation frivolously disregards a provision of this chapter or a rule or instruction of the tax administrator;

(2) The action or omission occurred with respect to an audit or an assessment and the review and collection proceedings connected with the audit or assessment;

(3) The tax administrator, the tax administrator's employee, or the employee of the municipal corporation did not act manifestly outside the scope of employment and did not act with malicious purpose, in bad faith, or in a wanton or reckless manner.

(B) In any action brought under division (A) of this section, upon a finding of liability on the part of the municipal corporation, the municipal corporation shall be liable to the taxpayer in an amount equal to the sum of the following:

(1) Compensatory damages sustained by the taxpayer as a result of the action or omission by the tax administrator, the tax administrator's employee, or the employee of the municipal corporation;

(2) Reasonable costs of litigation and attorneys' fees sustained by the taxpayer.

(C) In the awarding of damages under division (B) of this section, the court shall take into account the negligent actions or omissions, if any, on the part of the taxpayer that contributed to the damages, but shall not be bound by the provisions of sections 2315.32 to 2315.36 of the Revised Code.

(D) Whenever it appears to the court that a taxpayer's conduct in the proceedings brought under division (A) of this section is frivolous, the court may impose a penalty against the taxpayer in an amount not to exceed ten thousand dollars which shall be paid to the general fund of the municipal corporation.

(E) Division (A) of this section does not apply to opinions of the tax administrator or other information functions of the tax administrator.

(F) As used in this section, "frivolous" means that the conduct of the tax administrator, an employee of the municipal corporation or the tax administrator, the taxpayer, or the taxpayer's counsel of record satisfies either of the following:

(1) It obviously serves merely to harass or maliciously injure the tax administrator, the municipal corporation, or employees thereof if referring to the conduct of a taxpayer or the taxpayer's counsel of record, or to harass or maliciously injure the taxpayer if referring to the conduct of the tax administrator, the municipal corporation, or employees thereof;

(2) It is not warranted under existing law and cannot be supported by a good faith argument for an extension, modification, or reversal of existing law.

**Sec. 731.59.** All securities belonging to the treasury of any municipal corporation or to any fund thereof, other than the sinking fund, may be placed in the custody of any member of the federal reserve banking system, upon the issuance by such member of its custodian or other bailment receipt to the treasurer of the municipal corporation. Such custody shall be as a qualified trustee pursuant to division (E) of section 135.18 of the Revised Code, which shall be required to report to the treasurer, auditor of state, or an authorized outside auditor at any time upon request as to the identity, market value, and location of the document evidencing each security. Such securities, if not kept in the

custody of a member of the federal reserve banking system, shall be in the custody of such treasurer and shall be kept in a safe deposit box or vault belonging to a regular depository of the municipal corporation. If such securities are so kept, such safe deposit box or vault shall be opened only in the presence of one or more of the three officers named in section 731.57 of the Revised Code, and only upon a warrant or order of the chief accounting officer directing the deposit or removal of securities purchased or sold or the clipping of interest coupons for collection. A report of whatever is placed in or removed from such safe deposit box or vault upon any such occasion shall be signed by the treasurer and by the witness required by this section, and shall be returned to the chief accounting officer upon the same day. Whenever any securities are so held for the municipal corporation the officers having power to make such investments shall be bonded in amounts to be stipulated by ordinance. Such bonds may cover other contingencies in which such officers might become liable to the municipal corporation. In the event securities are deposited with a member of the federal reserve banking system, such securities may be withdrawn or sold only upon order of the three officers named in such section.

All investments, except for investments by the municipal corporation in the issues of such municipal corporation, shall be made only through a member of the national association of securities dealers, inc., through a bank, savings bank, or savings and loan association regulated by the superintendent of financial institutions, or through an institution regulated by the comptroller of the currency, federal deposit insurance corporation, board of governors of the federal reserve system, or federal home loan bank board. Payment for investments shall be made only upon the delivery of securities representing such investments to the treasurer or qualified trustee. If the securities transferred are not represented by a certificate, payment shall be made only upon receipt of confirmation of transfer from the custodian by the treasurer, governing board, or qualified trustee.

**Sec. 737.41.** (A) The legislative authority of a municipal corporation in which is established a municipal court, other than a county-operated municipal court, that has a department of probation shall establish in the municipal treasury a municipal probation services fund. The fund shall contain all moneys paid to the treasurer of the municipal corporation under section 2951.021 of the Revised Code for deposit into the fund. The treasurer of the municipal corporation shall disburse the money contained in the fund at the request of the municipal court department of probation, for use only by that department for specialized staff, purchase of equipment, purchase of services, reconciliation programs for offenders and victims, other treatment programs, including community addiction services providers, determined to be appropriate by the chief probation officer, and other similar expenses related to placing offenders under a community control sanction.

(B) Any money in a municipal probation services fund at the end of a fiscal year shall not revert to the treasury of the municipal corporation but shall be retained in the fund.

(C) As used in this section:

(1) "County-operated municipal court" has the same meaning as in section 1901.03 of the Revised Code.

(2) "Community addiction services provider" has the same meaning as in section 5119.01 of the Revised Code.

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

**Sec. 742.114.** (A) As used in this section and in section 742.116 of the Revised Code:

(1) "Agent" means a dealer, as defined in section 1707.01 of the Revised Code, who is licensed under sections 1707.01 to 1707.45 of the Revised Code or under comparable laws of another state or of the United States.

(2) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code.

(3) "Ohio-qualified agent" means an agent designated as such by the board of trustees of the fund.

(4) "Ohio-qualified investment manager" means an investment manager designated as such by the board of trustees of the fund.

(5) "Principal place of business" means an office in which the agent regularly provides securities or investment advisory services and solicits, meets with, or otherwise communicates with clients.

(B) The board of trustees of the fund shall, for the purposes of this section, designate an agent as an Ohio-qualified agent if the agent meets all of the following requirements:

(1) The agent is subject to taxation under Chapter 5725., 5726., 5733., 5747., or 5751. of the Revised Code;

(2) The agent is authorized to conduct business in this state;

(3) The agent maintains a principal place of business in this state and employs at least five residents of this state.

(C) The board shall adopt and implement a written policy to establish criteria and procedures used to select agents to execute securities transactions on behalf of the retirement system. The policy shall address each of the following:

(1) Commissions charged by the agent, both in the aggregate and on a per share basis;

(2) The execution speed and trade settlement capabilities of the agent;

(3) The responsiveness, reliability, and integrity of the agent;

(4) The nature and value of research provided by the agent;

(5) Any special capabilities of the agent.

(D)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified agents for the execution of domestic equity and fixed-income trades on behalf of the retirement system, when an Ohio-qualified agent offers quality, services, and safety comparable to other agents otherwise available to the board and meets the criteria established under division (C) of this section.

(2) The board shall review, at least annually, the performance of the agents that execute securities transactions on behalf of the board.

(3) The board shall determine whether an agent is an Ohio-qualified agent, meets the criteria established by the board pursuant to division (C) of this section, and offers quality, services, and safety comparable to other agents otherwise available to the board. The board's determination shall be final.

**Sec. 742.116.** (A) The board of trustees of the pension fund shall, for the purposes of this section, designate an investment manager as an Ohio-qualified investment manager if the investment



manager meets all of the following requirements:

(1) The investment manager is subject to taxation under Chapter 5725., 5726., 5733., 5747., or 5751. of the Revised Code;

(2) The investment manager meets one of the following requirements:

(a) Has its corporate headquarters or principal place of business in this state;

(b) Employs at least five hundred individuals in this state;

(c) Has a principal place of business in this state and employs at least twenty residents of this state.

(B)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified investment managers, when an Ohio-qualified investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The policy shall also provide for the following:

(a) A process whereby the board can develop a list of Ohio-qualified investment managers and their investment products;

(b) A process whereby the board can give public notice to Ohio-qualified investment managers of the board's search for an investment manager that includes the board's search criteria.

(2) The board shall determine whether an investment manager is an Ohio-qualified investment manager and whether the investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The board's determination shall be final.

**Sec. 742.462.** (A) As used in this section, "alternate payee," "benefit," "lump sum payment," "participant," and "public retirement program" have the same meanings as in section 3105.80 of the Revised Code.

(B) On receipt of an order issued under section 3105.171 or 3105.65 of the Revised Code, the Ohio police and fire pension fund shall determine whether the order meets the requirements of sections 3105.80 to 3105.90 of the Revised Code. The fund shall retain in the participant's record an order the fund determines meets the requirements. Not later than sixty days after receipt, the fund shall return to the court that issued the order any order the fund determines does not meet the requirements.

(C) The fund shall comply with an order retained under division (B) of this section at the following times as appropriate:

(1) If the participant has applied for or is receiving a benefit or has applied for but not yet received a lump sum payment, as soon as practicable;

(2) If the participant has not applied for a benefit or lump sum payment, on application by the participant for a benefit or lump sum payment.

(D) If the fund transfers a participant's service credit or contributions made by or on behalf of a participant to a public retirement program that is not named in the order, the fund shall do both of the following:

(1) Notify the court that issued the order by sending the court a copy of the order and the name and address of the public retirement program to which the transfer was made;

(2) Send a copy of the order to the public retirement program to which the transfer was made.

(E) If it receives a participant's service credit or contributions and a copy of an order as

provided in division (D) of this section, the fund shall administer the order as if it were the public retirement program named in the order.

(F) If a participant's benefit or lump sum payment is or will be subject to more than one order described in section 3105.81 of the Revised Code or to an order described in section 3105.81 of the Revised Code and a withholding order under section 3111.23 or 3113.21 of the Revised Code, the fund shall, after determining that the amounts that are or will be withheld will cause the benefit or lump sum payment to fall below the limits described in section 3105.85 of the Revised Code, do all of the following:

(1) Establish, in accordance with division (G) of this section and subject to the limits described in section 3105.85 of the Revised Code, the priority in which the orders are or will be paid by the fund in accordance with division (G) of this section;

(2) Reduce the amount paid to an alternate payee based on the priority established under division (F)(1) of this section;

(3) Notify, by regular mail, a participant and alternate payee of any action taken under this division.

(G) A withholding or deduction notice issued under section 3111.23 or 3113.21 of the Revised Code or an order described in section 3115.501 of the Revised Code has priority over all other orders and shall be complied with in accordance with child support enforcement laws. All other orders are entitled to priority in order of earliest retention by the fund. The fund is not to retain an order that provides for the division of property unless the order is filed in a court with jurisdiction in this state.

(H) The fund is not liable in civil damages for loss resulting from any action or failure to act in compliance with this section.

**Sec. 742.47.** Except as provided in sections 742.461, 742.462, 742.463, 742.464, 3105.171, 3105.65, and 3115.501 and Chapters 3119., 3121., 3123., and 3125. of the Revised Code, sums of money due or to become due to any individual from the Ohio police and fire pension fund are not liable to attachment, garnishment, the operation of bankruptcy or insolvency laws, levy, or seizure under any legal or equitable process or any other process of law whatsoever, whether those sums remain with the treasurer of the fund or any officer or agent of the board of trustees of the fund or are in the course of transmission to the individual entitled to them, but shall inure wholly to the benefit of that individual.

**Sec. 743.50.**

**Sec. 759.36.** At any joint meeting provided for by section 759.35 of the Revised Code, or at the joint meeting provided for by section 759.34 of the Revised Code, by a majority vote of all present counting members of the legislative authorities of municipal corporations and of boards of township trustees, the meeting may elect a board of cemetery trustees consisting of three members, of which one or more must be a member of each of the separate boards of township trustees and legislative authorities which comprise the union cemetery association represented by the joint meeting.

The board of cemetery trustees so elected shall have the custody of the funds derived from the tax levy provided by section 759.34 of the Revised Code, and the political subdivision shall pay the funds to the board of cemetery trustees upon its application for them. The board of cemetery

trustees also shall have the custody of the funds derived from any tax levied by the union cemetery district under Chapter 5705. of the Revised Code. The board of cemetery trustees shall have all the powers and perform all the duties exercised and performed by the director of public service of a municipal corporation under sections 759.09 to 759.14 of the Revised Code. The board of cemetery trustees may create a permanent endowment fund for the express purpose of keeping the cemetery clean and in good order and may:

- (A) Add to the price regularly charged for lots a sum for that purpose;
- (B) Receive gifts for that purpose;
- (C) Enter into separate agreements with the purchasers of lots by which an agreed part of the purchase price shall constitute a permanent fund;
- (D) Receive individual gifts for the fund, the income thereof to be used for the upkeep and care of lots.

When any such funds are received or created, they shall be a permanent fund for such use and the income therefrom shall be used only for such purpose, and the principal sum shall be kept and invested under the same terms fixed by law for the investment of the funds of a minor by the minor's guardian except that upon unanimous consent of the board of cemetery trustees, the board may use the principal of the fund if the board is unable to keep the cemetery clean and in good order using only the income from the fund.

At the first election of the board of cemetery trustees, one member shall be chosen for one year, one for two years, and one for three years, together with the part of a year intervening between the time of the election and the first day of January next thereafter. Yearly thereafter, at the joint meeting held in May, one member shall be chosen for three years commencing on the first day of January next thereafter. Any regular or regularly called joint meeting of the board of township trustees and municipal legislative authority may fill vacancies occurring on the board of cemetery trustees by a majority vote of the members present, the election to be for the unexpired term.

One member of the board of cemetery trustees or a person selected by the board of trustees shall be designated the clerk-treasurer for a term not to exceed two years. The clerk-treasurer shall be compensated from the cemetery fund in an amount fixed by the board of trustees in view of the size and financial condition of the cemetery association. The clerk-treasurer shall be charged with the duty of accounting for the fund and shall be bonded in an amount equal to or greater than the amount in the fund, but not less than one thousand dollars, the bond to be subject to the approval of the board of cemetery trustees and to be paid for from the cemetery funds.

Any member of the board of cemetery trustees may be removed by the joint meeting, on a two-thirds vote of all members entitled to sit in such meeting, for misfeasance or malfeasance in office, gross neglect of duty, or gross immorality, but no member shall be so removed until having had at least ten days' notice in writing, together with a copy of the charges against the member, and an opportunity to appear and defend self either in person or by counsel.

**Sec. 901.08.** The director of agriculture shall appoint a chief of the division of administration, a chief of the division of animal health, a chief of the division of livestock environmental permitting, a chief of the division of soil and water conservation, a chief of the division of dairy, a chief of the division of food safety, a chief of the division of markets, a chief of the division of plant health, a chief of the division of weights and measures, a chief of the division of meat inspection, a chief of

the division of consumer protection laboratory, a chief of the division of enforcement, and a chief of the division of amusement ride safety.

**Sec. 901.21.** (A) As used in this section and section 901.22 of the Revised Code:

(1) "Agricultural easement" has the same meaning as in section 5301.67 of the Revised Code.

(2) "Agriculture" means those activities occurring on land devoted exclusively to agricultural use, as defined in section 5713.30 of the Revised Code, or on land that constitutes a homestead.

(3) "Homestead" means the portion of a farm on which is located a dwelling house, yard, or outbuildings such as a barn or garage.

(B) The director of agriculture may acquire real property used predominantly in agriculture and agricultural easements by gift, devise, or bequest if, at the time an easement is granted, such an easement is on land that is valued for purposes of real property taxation at its current value for agricultural use under section 5713.31 of the Revised Code or that constitutes a homestead. Any terms may be included in an agricultural easement so acquired that are necessary or appropriate to preserve on behalf of the grantor of the easement the favorable tax consequences of the gift, devise, or bequest under the "Internal Revenue Act of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. The director, by any such means or by purchase or lease, may acquire, or acquire the use of, stationary personal property or equipment that is located on land acquired in fee by the director under this section and that is necessary or appropriate for the use of the land predominantly in agriculture.

(C) The director may include, in an agricultural easement acquired under division (B) of this section, a provision to preserve a unique natural or physical feature on the land so long as the use of the land remains predominantly agricultural.

(D) The director may do all things necessary or appropriate to retain the use of real property acquired in fee under division (B) of this section predominantly in agriculture, including, without limitation, performing any of the activities described in division (A)(1) or (2) of section 5713.30 of the Revised Code or entering into contracts to lease or rent the real property so acquired to persons or governmental entities that will use the land predominantly in agriculture.

(E)(1) When the director considers it to be necessary or appropriate, the director may sell real property acquired in fee, and stationary personal property or equipment acquired by gift, devise, bequest, or purchase, under division (B) of this section on such terms as the director considers to be advantageous to this state.

(2) An agricultural easement acquired under division (B) of this section may be extinguished under the circumstances prescribed, and in accordance with the terms and conditions set forth, in the instrument conveying the agricultural easement.

(F) There is hereby created in the state treasury the agricultural easement purchase fund. The fund shall consist of the proceeds received from the sale of real and personal property under division (E) of this section; moneys received due to the extinguishment of agricultural easements acquired by the director under division (B) of this section or section 5301.691 of the Revised Code; moneys received due to the extinguishment of agricultural easements purchased with the assistance of matching grants made under section 901.22 of the Revised Code; gifts, bequests, devises, and contributions received by the director for the purpose of acquiring agricultural easements; and grants received from public or private sources for the purpose of purchasing agricultural easements. The fund shall be administered by the director, and moneys in the fund shall be used by the director

exclusively to purchase agricultural easements under division (A) of section 5301.691 of the Revised Code and provide matching grants under section 901.22 of the Revised Code to municipal corporations, counties, townships, soil and water conservation districts established under Chapter 940. of the Revised Code, and charitable organizations described in division (B) of section 5301.69 of the Revised Code for the purchase of agricultural easements. Money in the fund shall be used only to purchase agricultural easements on land that is valued for purposes of real property taxation at its current value for agricultural use under section 5713.31 of the Revised Code or that constitutes a homestead when the easement is purchased.

(G) There is hereby created in the state treasury the clean Ohio agricultural easement fund. Twelve and one-half per cent of net proceeds of obligations issued and sold pursuant to sections 151.01 and 151.09 of the Revised Code shall be deposited into the fund. The fund shall be used by the director for the purposes of this section, section 901.22 of the Revised Code, and the provisions of sections 5301.67 to 5301.70 of the Revised Code governing agricultural easements. Investment earnings of the fund shall be credited to the fund and may be used to pay costs incurred by the director in administering those sections and provisions.

(H) The term of an agricultural easement purchased wholly or in part with money from the clean Ohio agricultural easement fund or the agricultural easement purchase fund shall be perpetual and shall run with the land.

**Sec. 901.22.** (A) The director of agriculture, in accordance with Chapter 119. of the Revised Code, shall adopt rules that do all of the following:

(1) Establish procedures and eligibility criteria for making matching grants to municipal corporations, counties, townships, soil and water conservation districts established under Chapter 940. of the Revised Code, and charitable organizations described in division (B) of section 5301.69 of the Revised Code for the purchase of agricultural easements. With respect to agricultural easements that are purchased or proposed to be purchased with such matching grants that consist in whole or in part of moneys from the clean Ohio agricultural easement fund created in section 901.21 of the Revised Code, the rules shall establish all of the following:

(a) Procedures for all of the following:

(i) Soliciting and accepting applications for matching grants;

(ii) Participation by local governments and by the public in the process of making matching grants to charitable organizations;

(iii) Notifying local governments, charitable organizations, and organizations that represent the interests of farmers of the ranking system established in rules adopted under division (A)(1)(b) of this section.

(b) A ranking system for applications for the matching grants that is based on the soil type, proximity of the land or other land that is conducive to agriculture as defined by rules adopted under this section and that is the subject of an application to other agricultural land or other land that is conducive to agriculture as defined by rules adopted under this section and that is already or is in the process of becoming permanently protected from development, farm stewardship, development pressure, and, if applicable, a local comprehensive land use plan involved with a proposed agricultural easement. The rules shall require that preference be given to proposed agricultural easements that involve the greatest proportion of all of the following:

- (i) Prime soils, unique or locally important soils, microclimates, or similar features;
  - (ii) Land that is adjacent to or that is in close proximity to other agricultural land or other land that is conducive to agriculture as defined by rules adopted under this section and that is already or is in the process of becoming permanently protected from development, by agricultural easement or otherwise, so that a buffer would exist between the land involving the proposed agricultural easement and areas that have been developed or likely will be developed for purposes other than agriculture;
  - (iii) The use of best management practices, including federally or state approved conservation plans, and a history of substantial compliance with applicable federal and state laws;
  - (iv) Development pressure that is imminent, but not a result of current location in the direct path of urban development;
  - (v) Areas identified for agricultural protection in local comprehensive land use plans.
- (c) Any other criteria that the director determines are necessary for selecting applications for matching grants;
- (d) Requirements regarding the information that must be included in the annual monitoring report that must be prepared for an agricultural easement under division (E)(2) of section 5301.691 of the Revised Code, procedures for submitting a copy of the report to the office of farmland preservation in the department of agriculture, and requirements and procedures governing corrective actions that may be necessary to enforce the terms of the agricultural easement.

(2) Establish provisions that shall be included in the instrument conveying to a municipal corporation, county, township, soil and water conservation district, or charitable organization any agricultural easement purchased with matching grant funds provided by the director under this section, including, without limitation, all of the following provisions:

(a) A provision stating that an easement so purchased may be extinguished only if an unexpected change in the conditions of or surrounding the land that is subject to the easement makes impossible or impractical the continued use of the land for the purposes described in the easement, or if the requirements of the easement are extinguished by judicial proceedings;

(b) A provision requiring that, upon the sale, exchange, or involuntary conversion of the land subject to the easement, the holder of the easement shall be paid an amount of money that is at least equal to the proportionate value of the easement compared to the total value of the land at the time the easement was acquired;

(c) A provision requiring that, upon receipt of the portion of the proceeds of a sale, exchange, or involuntary conversion described in division (A)(2)(b) of this section, the municipal corporation, county, township, soil and water conservation district, or charitable organization remit to the director an amount of money equal to the percentage of the cost of purchasing the easement it received as a matching grant under this section.

Moneys received by the director pursuant to rules adopted under division (A)(2)(c) of this section shall be credited to the agricultural easement purchase fund created in section 901.21 of the Revised Code.

(3) Establish a provision that provides a charitable organization, municipal corporation, township, county, or soil and water conservation district with the option of purchasing agricultural easements either in installments or with a lump sum payment. The rules shall include a requirement

that a charitable organization, municipal corporation, township, county, or soil and water conservation district negotiate with the seller of the agricultural easement concerning any installment payment terms, including the dates and amounts of payments and the interest rate on the outstanding balance. The rules also shall require the director to approve any method of payment that is undertaken in accordance with the rules adopted under division (A)(3) of this section.

(4) Establish any other requirements that the director considers to be necessary or appropriate to implement or administer a program to make matching grants under this section and monitor those grants.

(B) The director may develop guidelines regarding the acquisition of agricultural easements by the department of agriculture and the provisions of instruments conveying those easements. The director may make the guidelines available to public and private entities authorized to acquire and hold agricultural easements.

(C) The director may provide technical assistance in developing a program for the acquisition and monitoring of agricultural easements to public and private entities authorized to hold agricultural easements. The technical assistance may include, without limitation, reviewing and providing advisory recommendations regarding draft instruments conveying agricultural easements.

(D)(1) The director may make matching grants from the agricultural easement purchase fund and the clean Ohio agricultural easement fund to municipal corporations, counties, townships, soil and water conservation districts, and charitable organizations to assist those political subdivisions and charitable organizations in purchasing agricultural easements. Application for a matching grant shall be made on forms prescribed and provided by the director. The matching grants shall be made in compliance with the criteria and procedures established in rules adopted under this section. Instruments conveying agricultural easements purchased with matching grant funds provided under this section, at a minimum, shall include the mandatory provisions set forth in those rules.

Matching grants made under this division using moneys from the clean Ohio agricultural easement fund created in section 901.21 of the Revised Code may provide up to seventy-five per cent of the value of an agricultural easement as determined by a general real estate appraiser who is certified under Chapter 4763. of the Revised Code or as determined through a points-based appraisal system established under division (D)(2) of this section. Not less than twenty-five per cent of the value of the agricultural easement shall be provided by the recipient of the matching grant or donated by the person who is transferring the easement to the grant recipient. The amount of such a matching grant used for the purchase of a single agricultural easement shall not exceed one million dollars.

(2) The director shall establish a points-based appraisal system for the purposes of division (D)(1) of this section. The director may include any or all of the following factors in the system:

(a) Whether the applicable county auditor has determined that the land is land that is devoted exclusively to agriculture for the purposes of sections 5713.30 to 5713.38 of the Revised Code;

(b) Changes in land values following the completion of the applicable county auditor's reappraisal or triennial update;

(c) Soil types and productivity;

(d) Proximity of the land to land that is already subject to an agricultural easement, conservation easement created under sections 5301.67 to 5301.70 of the Revised Code, or similar land-use limitation;

(e) Proximity of the land to water and sewer lines, road interchanges, and nonagricultural development;

(f) Parcel size and roadway frontage of the land;

(g) Existence of an agreement entered into under division (D) of section 940.06 of the Revised Code or of an operation and management plan developed under division (A) of section 939.03 of the Revised Code;

(h) Existence of a comprehensive plan that is adopted under section 303.02 or 519.02 of the Revised Code or that is adopted by the planning commission of a municipal corporation under section 713.06 of the Revised Code;

(i) Any other factors that the director determines are necessary for inclusion in the system.

(E) An agricultural easement acquired as a result of a matching grant awarded under division (D) of this section may include a provision to preserve a unique natural or physical feature on the land so long as the use of the land remains predominantly agricultural.

(F) For any agricultural easement purchased with a matching grant that consists in whole or in part of moneys from the clean Ohio agricultural easement fund, the director shall be named as a grantee on the instrument conveying the easement, as shall the municipal corporation, county, township, soil and water conservation district, or charitable organization that receives the grant.

(G)(1) The director shall monitor and evaluate the effectiveness and efficiency of the agricultural easement program as a farmland preservation tool. On or before July 1, 1999, and the first day of July of each year thereafter, the director shall prepare and submit a report to the chairpersons of the standing committees of the senate and the house of representatives that consider legislation regarding agriculture. The report shall consider and address the following criteria to determine the program's effectiveness:

(a) The number of agricultural easements purchased during the preceding year;

(b) The location of those easements;

(c) The number of acres of land preserved for agricultural use;

(d) The amount of money used by a municipal corporation, township, county, or soil and water conservation district from any fund to purchase the agricultural easements;

(e) The number of state matching grants given to purchase the agricultural easements;

(f) The amount of state matching grant moneys used to purchase the agricultural easements.

(2) The report also shall consider and include, at a minimum, the following information for each county to determine the program's efficiency:

(a) The total number of acres in the county;

(b) The total number of acres in current agricultural use;

(c) The total number of acres preserved for agricultural use in the preceding year;

(d) The average cost, per acre, of land preserved for agricultural use in the preceding year.

**Sec. 902.01.** As used in this chapter:

(A) "Bonds" means bonds, notes, or other forms of evidences of obligation issued in temporary or definitive form, including refunding bonds and notes and bonds and notes issued in anticipation of the issuance of bonds and renewal notes.

(B) "Bond proceedings" means the resolution or ordinance or the trust agreement or indenture of mortgage, or combination thereof, authorizing or providing for the terms and conditions applicable



to bonds issued under authority of this chapter.

(C) "Borrower" means the recipient of a loan or the lessee or purchaser of a project under this chapter and is limited to a sole proprietor, or to a partnership, joint venture, firm, association, or corporation, a majority of whose stockholders, partners, members, or associates are persons or the spouses of persons related to each other within the fourth degree of kinship, according to law, provided that the sole proprietor or at least one of such related persons resides or will reside on or is or will actively operate the project or the farm or agricultural enterprise composed, in whole or in part, of the project, and provided further that the sole proprietor or all of the stockholders, members, partners, or associates are natural persons. The agricultural financing commission may establish procedures for the determination of the eligibility of borrowers under this chapter which determinations are conclusive in relation to the validity and enforceability of bonds issued under bond proceedings authorized in connection therewith, and in relation to security interests given and leases, subleases, sale agreements, loan agreements, and other agreements made in connection therewith, all in accordance with their terms.

(D) "Composite financing arrangement" means the sale of a single issue of bonds to finance two or more projects, including, but not limited to, a single issue of bonds for a group of loans submitted by or through a single lending institution or with credit enhancement from a single lending institution, or the sale by or on behalf of one or more issuers of two or more issues or lots of bonds under or pursuant to a single sale agreement, single marketing arrangement, or single official statement, offering circular, or other marketing document.

(E) "Issuer" means the state, or any county or municipal corporation of the state.

(F) "Issuing authority" means in the case of a municipal corporation, the legislative authority thereof; and in the case of a county, the board of county commissioners or whatever officers, board, commission, council, or other body might succeed to or assume the legislative powers of the board of county commissioners.

(G) "Lending institution" means a bank that has its principal place of business located in this state, a bank subsidiary corporation that is wholly owned by a bank having its principal place of business located in this state, any state or federal governmental agency or instrumentality including without limitation the federal land bank, production credit association, or bank for cooperatives, or any of their local associations, or any other financial institution or entity authorized to make mortgage loans and qualified to do business in this state.

(H) "Loan" includes a loan made to or through, or a deposit with, a lending institution or a loan made directly to the owner or operator of a project to finance one or more projects. Notwithstanding any other provision of this chapter, loans from proceeds of bonds issued under a composite financing arrangement shall be made only to or through, or by a deposit with, a lending institution, including the purchase of loans from lending institutions, or be made in any other manner in which a lending institution has been or is involved in the origination or credit enhancement of the loan.

(I) "Mortgage loan" means a loan secured by a mortgage, deed of trust, or other security interest.

(J) "Pledged facilities" means the project or projects mortgaged or facilities the rentals, revenues, and other income, charges, and moneys from which are pledged, or both, for the payment

of the principal of and interest on the bonds issued under authority of section 902.04 of the Revised Code, and includes a project for which a loan has been made under authority of this chapter, in which case, references in this chapter to revenues of such pledged facilities or from the disposition thereof include payments made or to be made to or for the account of the issuer pursuant to such loan.

(K) "Project" means real or personal property, or both, including undivided and other interests therein, acquired by gift or purchase, constructed, reconstructed, enlarged, improved, furnished, or equipped, or any combination thereof, by an issuer, or by others from the proceeds of bonds, located within the boundaries of the issuer, and used or to be used by a borrower for agricultural purposes as provided in division (D) of this section. A project is hereby determined to qualify as facilities for industry, commerce, distribution, or research described in Section 13 of Article VIII, Ohio Constitution.

(L) "Purchase" means, with respect to loans, the purchase of loans from, or other acquisition by an issuer of loans of, lending institutions.

(M) "Revenues" means the rentals, revenues, payments, repayments, income, charges, and moneys derived or to be derived from the use, lease, sublease, rental, sale, including installment sale or conditional sale, or other disposition of pledged facilities, or derived or to be derived pursuant to a loan made for a project, bond proceeds to the extent provided in the bond proceedings for the payment of principal of, or premium, if any, or interest on the bonds, proceeds from any insurance, condemnation, or guaranty pertaining to pledged facilities or the financing thereof, any income and profit from the investment of the proceeds of bonds or of any revenues, any fees and charges received by or on behalf of an issuer for the services of or commitments by the issuer, and moneys received in repayment of and for interest on any loan made or purchased by an issuer, moneys received by an issuer upon the sale of any bonds of the issuer under section 902.04 of the Revised Code, any moneys received from investment of funds of an issuer or from the sale of collateral securing loans made or purchased by the issuer, including collateral acquired by foreclosure or other action to enforce a security interest, and any moneys received in payment of a claim under insurance, guarantees, letters of credit, or otherwise with respect to any loans made or purchased by an issuer or any collateral held by the issuer of any bonds issued under this chapter.

(N) "Security interest" means a mortgage, lien, or other encumbrance on, or pledge or assignment of, or other security interest with respect to all or any part of pledged facilities, revenues, reserve funds, or other funds established under the bond proceedings, or on, of, or with respect to, a lease, sublease, sale, conditional sale, or installment sale agreement, loan agreement, or any other agreement pertaining to the lease, sublease, sale, or other disposition of a project or pertaining to a loan made for a project, or any guaranty or insurance agreement made with respect thereto, or any interest of the issuer therein, or any other interest granted, assigned, purchased, or released to secure payments of the principal of, premium, if any, or interest on any bonds or to secure any other payments to be made by an issuer under the bond proceedings. Any security interest under this chapter may be prior or subordinate to or on a parity with any other mortgage, lien, encumbrance, pledge, assignment, or other security interest.

**Sec. 903.01.** As used in this chapter:

(A) "Agricultural animal" means any animal generally used for food or in the production of

food, including cattle, sheep, goats, rabbits, poultry, and swine; horses; alpacas; llamas; and any other animal included by the director of agriculture by rule. "Agricultural animal" does not include fish or other aquatic animals regardless of whether they are raised at fish hatcheries, fish farms, or other facilities that raise aquatic animals.

(B) "Animal feeding facility" means a lot, building, or structure where both of the following conditions are met:

(1) Agricultural animals have been, are, or will be stabled or confined and fed or maintained there for a total of forty-five days or more in any twelve-month period.

(2) Crops, vegetative forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot, building, or structure.

"Animal feeding facility" also includes land that is owned or leased by or otherwise is under the control of the owner or operator of the lot, building, or structure and on which manure originating from agricultural animals in the lot, building, or structure or a production area is or may be applied.

Two or more animal feeding facilities under common ownership shall be considered to be a single animal feeding facility for the purposes of this chapter if they adjoin each other or if they use a common area or system for the disposal of manure.

(C) "Animal feeding operation" has the same meaning as "animal feeding facility."

(D) "Cattle" includes, but is not limited to, heifers, steers, bulls, and cow and calf pairs.

(E) "Concentrated animal feeding facility" means an animal feeding facility with a total design capacity equal to or more than the number of animals specified in any of the categories in division (M) of this section.

(F) "Concentrated animal feeding operation" means an animal feeding facility that complies with one of the following:

(1) Has a total design capacity equal to or more than the number of animals specified in any of the categories in division (M) of this section;

(2) Satisfies the criteria in division (M), (Q), or (EE) of this section;

(3) Is designated by the director of agriculture as a medium or small concentrated animal feeding operation pursuant to rules.

(G) "Discharge" means to add from a point source to waters of the state.

(H) "Federal Water Pollution Control Act" means the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 816, 33 U.S.C. 1251 et. seq., as amended, and regulations adopted under it.

(I) "Finalized," with respect to the programs required under division (A)(1) of section 903.02 and division (A)(1) of section 903.03 of the Revised Code, means that all rules that are necessary for the administration of this chapter have been adopted and all employees of the department of agriculture that are necessary for the administration of this chapter have been employed.

(J) "General permit" has the meaning that is established in rules.

(K) "Individual permit" has the meaning that is established in rules.

(L) "Installation permit" means a permit for the installation or modification of a disposal system or any part of a disposal system issued by the director of environmental protection under division (J)(1) of section 6111.03 of the Revised Code.

(M) "Large concentrated animal feeding operation" means an animal feeding facility that

stables or confines at least the number of animals specified in any of the following categories:

- (1) Seven hundred mature dairy cattle whether milked or dry;
- (2) One thousand veal calves;
- (3) One thousand cattle other than mature dairy cattle or veal calves;
- (4) Two thousand five hundred swine that each weigh fifty-five pounds or more;
- (5) Ten thousand swine that each weigh less than fifty-five pounds;
- (6) Five hundred horses;
- (7) Ten thousand sheep or lambs;
- (8) Fifty-five thousand turkeys;
- (9) Thirty thousand laying hens or broilers if the animal feeding facility uses a liquid manure handling system;
- (10) One hundred twenty-five thousand chickens, other than laying hens, if the animal feeding facility uses a manure handling system that is not a liquid manure handling system;
- (11) Eighty-two thousand laying hens if the animal feeding facility uses a manure handling system that is not a liquid manure handling system;
- (12) Thirty thousand ducks if the animal feeding facility uses a manure handling system that is not a liquid manure handling system;
- (13) Five thousand ducks if the animal feeding facility uses a liquid manure handling system.

(N) "Major concentrated animal feeding facility" means a concentrated animal feeding facility with a total design capacity of more than ten times the number of animals specified in any of the categories in division (M) of this section.

(O) "Manure" means any of the following wastes used in or resulting from the production of agricultural animals or direct agricultural products such as milk or eggs: animal excreta, discarded products, bedding, process waste water, process generated waste water, waste feed, silage drainage, and compost products resulting from mortality composting or the composting of animal excreta.

(P) "Manure storage or treatment facility" means any excavated, diked, or walled structure or combination of structures designed for the biological stabilization, holding, or storage of manure.

(Q) "Medium concentrated animal feeding operation" means an animal feeding facility that satisfies both of the following:

- (1) The facility stables or confines the number of animals specified in any of the following categories:
  - (a) Two hundred to six hundred ninety-nine mature dairy cattle whether milked or dry;
  - (b) Three hundred to nine hundred ninety-nine veal calves;
  - (c) Three hundred to nine hundred ninety-nine cattle other than mature dairy cattle or veal calves;
  - (d) Seven hundred fifty to two thousand four hundred ninety-nine swine that each weigh fifty-five pounds or more;
  - (e) Three thousand to nine thousand nine hundred ninety-nine swine that each weigh less than fifty-five pounds;
  - (f) One hundred fifty to four hundred ninety-nine horses;
  - (g) Three thousand to nine thousand nine hundred ninety-nine sheep or lambs;
  - (h) Sixteen thousand five hundred to fifty-four thousand nine hundred ninety-nine turkeys;

(i) Nine thousand to twenty-nine thousand nine hundred ninety-nine laying hens or broilers if the animal feeding facility uses a liquid manure handling system;

(j) Thirty-seven thousand five hundred to one hundred twenty-four thousand nine hundred ninety-nine chickens, other than laying hens, if the animal feeding facility uses a manure handling system that is not a liquid manure handling system;

(k) Twenty-five thousand to eighty-one thousand nine hundred ninety-nine laying hens if the animal feeding facility uses a manure handling system that is not a liquid manure handling system;

(l) Ten thousand to twenty-nine thousand nine hundred ninety-nine ducks if the animal feeding facility uses a manure handling system that is not a liquid manure handling system;

(m) One thousand five hundred to four thousand nine hundred ninety-nine ducks if the animal feeding facility uses a liquid manure handling system.

(2) The facility does one of the following:

(a) Discharges pollutants into waters of the United States through a ditch constructed by humans, a flushing system constructed by humans, or another similar device constructed by humans;

(b) Discharges pollutants directly into waters of the United States that originate outside of and that pass over, across, or through the facility or otherwise come into direct contact with the animals at the facility.

"Medium concentrated animal feeding operation" includes an animal feeding facility that is designated by the director as a medium concentrated animal feeding operation pursuant to rules.

(R) "Mortality composting" means the controlled decomposition of organic solid material consisting of dead animals that stabilizes the organic fraction of the material.

(S) "NPDES permit" means a permit issued under the national pollutant discharge elimination system established in section 402 of the Federal Water Pollution Control Act and includes the renewal of such a permit. "NPDES permit" includes the federally enforceable provisions of a permit to operate into which NPDES permit provisions have been incorporated.

(T) "Permit" includes an initial, renewed, or modified permit to install, permit to operate, NPDES permit, and installation permit unless expressly stated otherwise.

(U) "Permit to install" means a permit issued under section 903.02 of the Revised Code.

(V) "Permit to operate" means a permit issued or renewed under section 903.03 of the Revised Code and includes incorporated NPDES permit provisions, if applicable.

(W) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes the state, any political subdivision of the state, any interstate body created by compact, the United States, or any department, agency, or instrumentality of any of those entities.

(X) "Point source" has the same meaning as in the Federal Water Pollution Control Act.

(Y) "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials except those regulated under the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C. 2011, as amended, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste, including manure, discharged into water. "Pollutant" does not include either of the following:

(1) Sewage from vessels;

(2) Water, gas, or other material that is injected into a well to facilitate production of oil or

gas, or water derived in association with oil and gas production and disposed of in a well, if the well that is used either to facilitate production or for disposal purposes is approved by the state and if the state determines that the injection or disposal will not result in the degradation of ground or surface water resources.

(Z) "Process generated waste water" means water that is directly or indirectly used in the operation of an animal feeding facility for any of the following:

- (1) Spillage or overflow from animal watering systems;
- (2) Washing, cleaning, or flushing pens, barns, manure pits, or other areas of an animal feeding facility;
- (3) Direct contact swimming, washing, or spray cooling of animals;
- (4) Dust control.

(AA) "Process waste water" means any process generated waste water and any precipitation, including rain or snow, that comes into contact with manure, litter, bedding, or any other raw material or intermediate or final material or product used in or resulting from the production of animals or direct products such as milk or eggs.

(BB) "Production area" means any of the following components of an animal feeding facility:

- (1) Animal confinement areas, including, but not limited to, open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, animal walkways, and stables;
- (2) Manure storage areas, including, but not limited to, manure storage or treatment facilities;
- (3) Raw material storage areas, including, but not limited to, feed silos, silage bunkers, commodity buildings, and bedding materials;
- (4) Waste containment areas, including, but not limited to, any of the following:
  - (a) An egg washing or egg processing facility;
  - (b) An area used in the storage, handling, treatment, or disposal of mortalities;
  - (c) Settling basins, runoff ponds, liquid impoundments, and areas within berms and diversions that are designed and maintained to separate uncontaminated storm water runoff from contaminated water and to contain and treat contaminated storm water runoff.

(CC) "Public meeting" means a nonadversarial public hearing at which a person may present written or oral statements for the director of agriculture's consideration and includes public hearings held under section 6111.12 of the Revised Code.

(DD) "Rule" means a rule adopted under section 903.10 of the Revised Code.

(EE) "Small concentrated animal feeding operation" means an animal feeding facility that is not a large or medium concentrated animal feeding operation and that is designated by the director as a small concentrated animal feeding operation pursuant to rules.

(FF) "Waters of the state" has the same meaning as in section 6111.01 of the Revised Code.

**Sec. 903.03.** (A)(1) Not later than one hundred eighty days after March 15, 2001, the director of agriculture shall prepare a program for the issuance of permits to operate under this section.

(2) Except for a concentrated animal feeding facility that is operating under an installation permit, on and after the date on which the director has finalized the program required under division (A)(1) of this section, no person shall own or operate a concentrated animal feeding facility without a permit to operate issued by the director under this section.

(B) The director or the director's authorized representative may help an applicant for a permit to operate during the permitting process by providing guidance and technical assistance.

(C) An applicant for a permit to operate shall submit a fee in an amount established by rule together with, except as otherwise provided in division (E) of this section, an application to the director on a form that the director prescribes and provides. The applicant shall include with the application all of the following information:

(1) The name and address of the applicant, of all partners if the applicant is a partnership, of all members if the applicant is a limited liability company, or of all officers and directors if the applicant is a corporation, and of any other person who has a right to control or in fact controls management of the applicant or the selection of officers, directors, or managers of the applicant. As used in division (C)(1) of this section, "control" has the same meaning as in division (C)(1) of section 903.02 of the Revised Code.

(2) Information concerning the applicant's past compliance with laws pertaining to environmental protection that is required to be provided under section 903.05 of the Revised Code, if applicable;

(3) A manure management plan for the concentrated animal feeding facility that conforms to best management practices regarding the handling, storage, transportation, and land application of manure generated at the facility and that contains any other information required by rule;

(4) An insect and rodent control plan for the concentrated animal feeding facility that conforms to best management practices and is prepared in accordance with section 903.06 of the Revised Code;

(5) In the case of an application for a major concentrated animal feeding facility, written proof that the person who would be responsible for the supervision of the management and handling of manure at the facility has been issued a livestock manager certification in accordance with section 903.07 of the Revised Code or will obtain a livestock manager certification prior to applying any manure to land.

(D) The director shall issue permits to operate in accordance with section 903.09 of the Revised Code. The director shall deny a permit to operate if either of the following applies:

(1) The permit application contains misleading or false information.

(2) The manure management plan or insect and rodent control plan fails to conform to best management practices.

Additional grounds for the denial of a permit to operate shall be those established in this chapter and in rules.

(E) The director shall issue general permits to operate for categories of concentrated animal feeding facilities that will apply in lieu of individual permits to operate, provided that each category of facilities meets all of the criteria established in rules for general permits to operate. A person who is required to obtain a permit to operate shall submit to the director a notice of the person's intent to be covered under an existing general permit or, at the person's option, shall submit an application for an individual permit to operate. Upon receipt of a notice of intent to be covered under an existing general permit, the director shall notify the applicant in writing that the person is covered by the general permit if the person satisfies the criteria established in rules for eligibility for such coverage. If the person is ineligible for coverage under the general permit, the director shall require the

submission of an application for an individual permit to operate.

(F) A permit to operate shall be valid for a period of five years.

(G) A permit to operate may be renewed. An application for renewal of a permit to operate shall be submitted to the director at least one hundred eighty days prior to the expiration date of the permit to operate and shall comply with the requirements governing applications for permits to operate that are established under this section and by rules, including requirements pertaining to public notice and participation.

(H) The director may modify, suspend, or revoke a permit to operate in accordance with rules.

(I) The owner or operator of a concentrated animal feeding facility who proposes to make a major operational change at the facility shall submit an application for approval of the change to the director in accordance with rules.

**Sec. 903.07.** (A) On and after the date that is established in rules by the director of agriculture, both of the following apply:

(1) The management and handling of manure at a major concentrated animal feeding facility, including the land application of manure or the removal of manure from a manure storage or treatment facility, shall be conducted only by or under the supervision of a person holding a livestock manager certification issued under this section. A person managing or handling manure who is acting under the instructions and control of a person holding a livestock manager certification is considered to be under the supervision of the certificate holder if the certificate holder is responsible for the actions of the person and is available when needed even though the certificate holder is not physically present at the time of the manure management or handling.

(2) No person shall transport and land apply annually or buy, sell, or land apply annually the volume of manure established in rules adopted by the director under division (D)(5) of section 903.10 of the Revised Code unless the person holds a livestock manager certification issued under this section.

(B) The director shall issue a livestock manager certification to a person who has submitted a complete application for certification on a form prescribed and provided by the director, together with the appropriate application fee, and who has completed successfully the required training and has passed the required examination. The director may suspend or revoke a livestock manager certification and may reinstate a suspended or revoked livestock manager certification in accordance with rules.

(C) Information required to be included in an application for a livestock manager certification, the amount of the application fee, requirements regarding training and the examination, requirements governing the management and handling of manure, including the land application of manure, and requirements governing the keeping of records regarding the handling of manure, including the land application of manure, shall be established in rules.

**Sec. 903.082.** (A) The director of agriculture may determine that an animal feeding facility that is not a concentrated animal feeding facility nevertheless shall be required to apply for and receive a permit to operate when all of the following apply:

(1) The director has specified a corrective action to be taken under section 939.07 of the Revised Code.



(2) The director or the director's authorized representative has inspected the animal feeding facility.

(3) The director or the director's authorized representative finds that the facility is not being operated in a manner that protects the waters of the state.

(B) In a situation in which best management practices cannot be implemented without modifying the existing animal feeding facility, the owner or operator of the facility shall apply for a permit to install for the facility.

(C) In the case of an animal feeding facility for which a permit to operate is required under this section, a permit to operate shall not be required after the end of the five-year term of the permit if the problems that caused the facility to be required to obtain the permit have been corrected to the director's satisfaction.

**Sec. 903.09.** (A) Prior to issuing or modifying a permit to install, permit to operate, or NPDES permit, the director of agriculture shall issue a draft permit. The director or the director's representative shall mail notice of the issuance of a draft permit to the applicant and shall publish the notice once in a newspaper of general circulation in the county in which the concentrated animal feeding facility or discharger is located or proposed to be located. The director shall mail notice of the issuance of a draft permit and a copy of the draft permit to the board of county commissioners of the county and the board of township trustees of the township in which the concentrated animal feeding facility or discharger is located or proposed to be located. The director or the director's representative also shall provide notice of the issuance of a draft NPDES permit to any other persons that are entitled to notice under the Federal Water Pollution Control Act. Notice of the issuance of a draft permit to install, permit to operate, or NPDES permit shall include the address where written comments concerning the draft permit may be submitted and the period of time during which comments will be accepted as established by rule.

If the director receives written comments in an amount that demonstrates significant public interest, as defined by rule, in the draft permit, the director shall schedule one public meeting to provide information to the public and to hear comments pertinent to the draft permit. The notice of the public meeting shall be provided in the same manner as the notice of the issuance of the draft permit.

(B) If a person is required to obtain both a permit to install and a permit to operate, including any permit to operate with NPDES provisions, and public meetings are required for both permits, the public meetings for the permits shall be combined.

(C) The director shall apply the antidegradation policy adopted under section 6111.12 of the Revised Code to permits issued under this chapter to the same degree and under the same circumstances as it applies to permits issued under Chapter 6111. of the Revised Code. The director shall hold one public meeting to consider antidegradation issues when such a meeting is required by the antidegradation policy. When allowed by the antidegradation policy, the director shall hold the public meeting on antidegradation issues concurrently with any public meeting held for the draft permit.

(D) The director or the director's representative shall publish notice of the issuance of a final permit to install, permit to operate, or NPDES permit once in a newspaper of general circulation in the county in which the concentrated animal feeding facility or discharger is located.

(E) Notice or a public meeting is not required for the modification of a permit made with the consent of the permittee for the correction of typographical errors.

(F) The denial, modification, suspension, or revocation of a permit to install, permit to operate, or NPDES permit without the consent of the applicant or permittee shall be preceded by a proposed action stating the director's intention to issue an order with respect to the permit and the reasons for it.

The director shall mail to the applicant or the permittee notice of the director's proposed action to deny, modify, suspend, or revoke a permit to install, permit to operate, or NPDES permit. The director shall publish the notice once in a newspaper of general circulation in the county in which the concentrated animal feeding facility or concentrated animal feeding operation is located or proposed to be located. The director shall mail a copy of the notice of the proposed action to the board of county commissioners of the county and to the board of township trustees of the township in which the concentrated animal feeding facility or concentrated animal feeding operation is located or proposed to be located. The director also shall provide notice of the director's proposed action to deny, modify, suspend, or revoke a permit to install, permit to operate, or NPDES permit to any other person that is entitled to notice under the Federal Water Pollution Control Act. The notice of the director's proposed action to deny, modify, suspend, or revoke a permit to install, permit to operate, or NPDES permit shall include the address where written comments concerning the director's proposed action may be submitted and the period of time during which comments will be accepted as established by rule. If the director receives written comments in an amount that demonstrates significant public interest, as defined by rule, the director shall schedule one public meeting to provide information to the public and to hear comments pertinent to the proposed action. The notice of the public meeting shall be provided in the same manner as the notice of the director's proposed action.

The director shall not issue an order that makes the proposed action final until the applicant or permittee has had an opportunity for an adjudication hearing in accordance with Chapter 119. of the Revised Code, except that section 119.12 of the Revised Code does not apply. An order of the director that finalizes the proposed action or an order issuing a permit without a prior proposed action may be appealed to the environmental review appeals commission under sections 3745.04 to 3745.06 of the Revised Code.

(G)(1) The director shall issue an order issuing or denying an application for a permit to operate that contains NPDES provisions or for a NPDES permit, as well as any application for a permit to install that is submitted simultaneously, not later than one hundred eighty days after receiving the application.

(2) In the case of an application for a permit to install or permit to operate that is not connected with an application for a NPDES permit, the director shall issue or propose to deny the permit not later than ninety days after receiving the application. If the director has proposed to deny the permit to install or permit to operate under division (G)(2) of this section, the director shall issue an order denying the permit or, if the director decides against the proposed denial, issuing the permit not later than one hundred eighty days after receiving the application. If the director denies the permit, the director shall notify the applicant in writing of the reason for the denial.

(H) All rulemaking and the issuance of civil penalties under this chapter shall comply with

Chapter 119. of the Revised Code.

(I) Upon the transfer of ownership of an animal feeding facility for which a permit to install, an installation permit, or a permit to operate that contains no NPDES provisions has been issued, the permit shall be transferred to the new owner of the animal feeding facility except as provided in division (C) of section 903.05 of the Revised Code. In the case of the transfer of ownership of a point source for which a NPDES permit or a permit to operate that contains NPDES provisions has been issued, the permit shall be transferred in accordance with rules.

(J) Applications for installation permits for animal feeding facilities pending before the director of environmental protection on the date on which the director of agriculture has finalized the programs required under division (A)(1) of section 903.02 and division (A)(1) of section 903.03 of the Revised Code shall be transferred to the director of agriculture. In the case of an applicant who is required to obtain a permit to install and a permit to operate under sections 903.02 and 903.03, respectively, of the Revised Code, the director of agriculture shall process the pending application for an installation permit as an application for a permit to install and a permit to operate.

(K) Applications for NPDES permits for either of the following that are pending before the director of environmental protection on the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under section 903.08 of the Revised Code shall be transferred to the director of agriculture:

- (1) The discharge of pollutants from a concentrated animal feeding operation;
- (2) The discharge of storm water resulting from an animal feeding facility.

In the case of an applicant who is required to obtain a NPDES permit under section 903.08 of the Revised Code, the director of agriculture shall process the pending application as an application for a NPDES permit under that section.

**Sec. 903.10.** The director of agriculture may adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following:

- (A) Establish all of the following concerning permits to install and permits to operate:
  - (1) A description of what constitutes a modification of a concentrated animal feeding facility;
  - (2) A description of what constitutes a major operational change at a concentrated animal feeding facility;
  - (3) The amount of the fee that must be submitted with each permit application and each application for a permit modification;
  - (4) Information that must be included in the designs and plans required to be submitted with an application for a permit to install and criteria for approving, disapproving, or requiring modification of the designs and plans;
  - (5) Information that must be included in a manure management plan required to be submitted with an application for a permit to operate;
  - (6) Information that must be included in an application for the modification of an installation permit, a permit to install, or a permit to operate;
  - (7) Information that must be included in an application for approval of a major operational change at a concentrated animal feeding facility;
  - (8) Any additional information that must be included with a permit application;
  - (9) Procedures for the issuance, denial, modification, transfer, suspension, and revocation of

permits to install and permits to operate, including general permits;

(10) Procedures for the approval or denial of an application for approval of a major operational change at a concentrated animal feeding facility;

(11) Grounds for the denial, modification, suspension, or revocation of permits to install and permits to operate in addition to the grounds established in division (D) of section 903.02 and division (D) of section 903.03 of the Revised Code;

(12) Grounds for the denial of an application for approval of a major operational change at a concentrated animal feeding facility;

(13) A requirement that a person that is required to obtain both a permit to install and a permit to operate submit applications for those permits simultaneously;

(14) A definition of "general permit to operate" that establishes categories of concentrated animal feeding facilities to be covered under such a permit and a definition of "individual permit to operate" together with the criteria for issuing a general permit to operate and the criteria for determining a person's eligibility to operate under a general permit to operate.

(B) Establish best management practices that minimize water pollution, odors, insects, and rodents, that govern the land application of manure that originated at a concentrated animal feeding facility, and that govern all of the following activities that occur at a concentrated animal feeding facility:

(1) Manure management, including the storage, handling, transportation, and land application of manure. Rules adopted under division (B)(1) of this section shall include practices that prevent surface and ground water contamination caused by the storage of manure or the land application of manure and prevent the contamination of water in drainage tiles that may be caused by that application.

(2) Disposal of dead livestock;

(3) Production of biodiesel, biomass energy, electric or heat energy, and biologically derived methane gas as those terms are defined in section 5713.30 of the Revised Code;

(4) Any other activity that the director considers appropriate.

Best management practices established in rules adopted under division (B) of this section shall not conflict with best management practices established in rules that have been adopted under any other section of the Revised Code. The rules adopted under division (B) of this section shall establish guidelines that require owners or operators of concentrated animal feeding facilities to consult with and work with local officials, including boards of county commissioners and boards of township trustees, in addressing issues related to local government infrastructure needs and the financing of that infrastructure.

(C) Establish all of the following concerning insect and rodent control plans required under section 903.06 of the Revised Code:

(1) The information to be included in an insect and rodent control plan;

(2) Criteria for approving, disapproving, or requiring modification of an insect and rodent control plan;

(3) Criteria for determining compliance with or violation of an insect and rodent control plan;

(4) Procedures and standards for monitoring insect and rodent control plans;

(5) Procedures and standards for enforcing insect and rodent control plans at concentrated

animal feeding facilities at which insects or rodents constitute a nuisance or adversely affect public health;

(6) The amount of civil penalties for violation of an insect and rodent control plan assessed by the director of agriculture under division (B) of section 903.16 of the Revised Code, provided that the rules adopted under division (C)(6) of this section shall not establish a civil penalty of more than ten thousand dollars for a violation involving a concentrated animal feeding facility that is not a major concentrated animal feeding facility and shall not establish a civil penalty of more than twenty-five thousand dollars for a violation involving a major concentrated animal feeding facility;

(7) The time period within which the director must approve or deny an insect and rodent control plan after receiving it;

(8) Any other provisions necessary to administer and enforce section 903.12 of the Revised Code.

(D) Establish all of the following concerning livestock manager certifications required under section 903.07 of the Revised Code:

(1) The information to be included in an application for a livestock manager certification and the amount of the application fee;

(2) The content of the training required to be completed and of the examination required to be passed by an applicant for a livestock manager certification. The training shall include and the examination shall test the applicant's knowledge of information on topics that include calculating nutrient values in manure, devising and implementing a plan for the land application of manure, removing manure held in a manure storage or treatment facility, and following best management practices established in rules for disposal of dead animals and manure management, including practices that control odor and protect the environment. The director may specify other types of recognized training programs that, if completed, are considered to satisfy the training and examination requirement.

(3) Criteria and procedures for the issuance, denial, suspension, revocation, or reinstatement of a livestock manager certification;

(4) The length of time during which livestock manager certifications will be valid and procedures for their renewal;

(5) The volume of manure that must be transported and land applied annually or the volume of manure that must be bought, sold, or land applied annually by a person in order for the person to be required to obtain a livestock manager certification under division (A)(2) of section 903.07 of the Revised Code;

(6) Requirements governing the management and handling of manure, including the land application of manure;

(7) Requirements governing the keeping of records regarding the handling of manure, including the land application of manure;

(8) Any other provisions necessary to administer and enforce section 903.07 of the Revised Code.

(E) Establish all of the following concerning NPDES permits:

(1) The designation of concentrated animal feeding operations that are subject to NPDES permit requirements under section 903.08 of the Revised Code;

(2) Effluent limitations governing discharges into waters of the state that are authorized by permits;

(3) Variances from effluent limitations and other permit requirements to the extent that the variances are consistent with the Federal Water Pollution Control Act;

(4) Terms and conditions to be included in a permit, including, as applicable, best management practices; installation of discharge or water quality monitoring methods or equipment; creation and retention of records; submission of periodic reports; schedules of compliance; net volume, net weight, and, where necessary, concentration and mass loading limits of manure that may be discharged into waters of the state; and authorized duration and frequency of any discharges into waters of the state;

(5) Procedures for the submission of applications for permits and notices of intent to be covered by general permits, including information that must be included in the applications and notices;

(6) The amount of the fee that must be submitted with an application for a permit;

(7) Procedures for processing permit applications, including public notice and participation requirements;

(8) Procedures for notifying the United States environmental protection agency of the submission of permit applications, the director's action on those applications, and any other reasonable and relevant information;

(9) Procedures for notifying and receiving and responding to recommendations from other states whose waters may be affected by the issuance of a permit;

(10) Procedures for the transfer of permits to new owners or operators;

(11) Grounds and procedures for the issuance, denial, modification, suspension, or revocation of permits, including general permits;

(12) A definition of "general NPDES permit" that establishes categories of point sources to be covered under such a permit and a definition of "individual NPDES permit" together with the criteria for issuing a general NPDES permit and the criteria for determining a person's eligibility to discharge under a general NPDES permit.

The rules adopted under division (E) of this section shall be consistent with the requirements of the Federal Water Pollution Control Act.

(F) Establish public notice and participation requirements, in addition to the procedures established in rules adopted under division (E)(7) of this section, for the issuance, denial, modification, transfer, suspension, and revocation of permits to install, permits to operate, and NPDES permits consistent with section 903.09 of the Revised Code, including a definition of what constitutes significant public interest for the purposes of divisions (A) and (F) of section 903.09 of the Revised Code and procedures for public meetings. The rules shall require that information that is presented at such a public meeting be limited to the criteria that are applicable to the permit application that is the subject of the public meeting.

(G) Establish the amount of civil penalties assessed by the director of agriculture under division (B) of section 903.16 of the Revised Code for violation of the terms and conditions of a permit to install or permit to operate, provided that the rules adopted under this division shall not establish a civil penalty of more than ten thousand dollars per day for each violation;

(H) Establish procedures for the protection of trade secrets from public disclosure. The procedures shall authorize the release of trade secrets to officers, employees, or authorized representatives of the state, another state, or the United States when necessary for an enforcement action brought under this chapter or when otherwise required by the Federal Water Pollution Control Act. The rules shall require at least ten days' written notice to the person to whom a trade secret applies prior to the release of the trade secret. Rules adopted under this division do not apply to any information that is contained in applications, including attachments, for NPDES permits and that is required to be submitted under section 903.08 of the Revised Code or rules adopted under division (E) of this section.

(I) Establish any other provisions necessary to administer and enforce this chapter.

**Sec. 903.11.** (A) The director of agriculture may enter into contracts or agreements to carry out the purposes of this chapter with any public or private person, including OSU extension, the natural resources conservation service in the United States department of agriculture, the environmental protection agency, and soil and water conservation districts established under Chapter 940. of the Revised Code. However, the director shall not enter into a contract or agreement with a private person for the review of applications for permits to install, permits to operate, or NPDES permits that are issued under this chapter or for the inspection of a facility regulated under this chapter or with any person for the issuance of any of those permits or for the enforcement of this chapter and rules adopted under it.

(B) The director may administer grants and loans using moneys from the federal government and other sources, public or private, for carrying out any of the director's functions. Nothing in this chapter shall be construed to limit the eligibility of owners or operators of animal feeding facilities or other agricultural enterprises to receive moneys from the water pollution control loan fund established under section 6111.036 of the Revised Code and the nonpoint source pollution management fund established under section 6111.037 of the Revised Code.

The director of agriculture shall provide the director of environmental protection with written recommendations for providing financial assistance from those funds to agricultural enterprises. The director of environmental protection shall consider the recommendations in developing priorities for providing financial assistance from the funds.

**Sec. 903.12.** (A) The director of agriculture or the director's authorized representative at reasonable times may enter on any public or private property, real or personal, to make investigations and inspections, including the sampling of discharges and the inspection of discharge monitoring equipment, or to otherwise execute duties that are necessary for the administration and enforcement of this chapter. The director or the director's authorized representative at reasonable times may examine and copy any records pertaining to discharges that are subject to this chapter or any records that are required to be maintained by the terms and conditions of a permit issued under this chapter. If refused entry, the director or the director's authorized representative may apply for and the court of common pleas having jurisdiction may issue an appropriate warrant.

(B) No person to whom a permit has been issued under this chapter shall refuse entry to the director or the director's authorized representative or purposely hinder or thwart the director or the director's authorized representative in the exercise of any authority granted under division (A) of this section.

**Sec. 903.13.** In a private civil action for an alleged nuisance related to agricultural activities conducted at a concentrated animal feeding facility, it is an affirmative defense if the person owning, operating, or otherwise responsible for the concentrated animal feeding facility is in compliance with best management practices established in the installation permit or permit to operate issued for the concentrated animal feeding facility and the agricultural activities do not violate federal, state, and local laws governing nuisances.

**Sec. 903.16.** (A) The director of agriculture may propose to require corrective actions and assess a civil penalty against an owner or operator of a concentrated animal feeding facility if the director or the director's authorized representative determines that the owner or operator is not in compliance with section 903.02 or 903.03 or division (A) of section 903.07 of the Revised Code, the terms and conditions of a permit to install or permit to operate issued for the concentrated animal feeding facility, including the requirements established under division (C) of section 903.06 of the Revised Code, or rules adopted under division (A), (B), (C), (D), or (I) of section 903.10 of the Revised Code. However, the director may impose a civil penalty only if all of the following occur:

(1) The owner or operator is notified in writing of the deficiencies resulting in noncompliance, the actions that the owner or operator must take to correct the deficiencies, and the time period within which the owner or operator must correct the deficiencies and attain compliance.

(2) After the time period specified in the notice has elapsed, the director or the director's duly authorized representative has inspected the concentrated animal feeding facility, determined that the owner or operator is still not in compliance, and issued a notice of an adjudication hearing.

(3) The director affords the owner or operator an opportunity for an adjudication hearing under Chapter 119. of the Revised Code to challenge the director's determination that the owner or operator is not in compliance or the imposition of the civil penalty, or both. However, the owner or operator may waive the right to an adjudication hearing.

(B) If the opportunity for an adjudication hearing is waived or if, after an adjudication hearing, the director determines that a violation has occurred or is occurring, the director may issue an order requiring compliance and assess the civil penalty. The order and the assessment of the civil penalty may be appealed in accordance with section 119.12 of the Revised Code.

Civil penalties shall be assessed under this division as follows:

(1) A person who has violated section 903.02 or 903.03 of the Revised Code, the terms and conditions of a permit to install or permit to operate, or rules adopted under division (A), (B), (C), (D), or (I) of section 903.10 of the Revised Code shall pay a civil penalty in an amount established in rules unless the violation is of the requirements established under division (C) of section 903.06 or division (A) of section 903.07 of the Revised Code.

(2) A person who has violated the requirements established under division (C) of section 903.06 of the Revised Code shall pay a civil penalty in an amount established in rules for each violation. Each seven-day period during which a violation continues constitutes a separate violation.

(3) A person who has violated the requirements established under division (A) of section 903.07 of the Revised Code shall pay a civil penalty of not more than ten thousand dollars for each violation. Each thirty-day period during which a violation continues constitutes a separate violation.

(C) The attorney general, upon the written request of the director, shall bring an action for an injunction in any court of competent jurisdiction against any person violating or threatening to



violate section 903.02 or 903.03 or division (A) of section 903.07 of the Revised Code; the terms and conditions of a permit to install or permit to operate, including the requirements established under division (C) of section 903.06 of the Revised Code; rules adopted under division (A), (B), (C), (D), or (I) of section 903.10 of the Revised Code; or an order issued under division (B) of this section or division (B) of section 903.07 of the Revised Code.

(D)(1) In lieu of seeking civil penalties under division (A) of this section, the director may request the attorney general, in writing, to bring an action for a civil penalty in a court of competent jurisdiction against any person that has violated or is violating division (A) of section 903.07 of the Revised Code or the terms and conditions of a permit to install or permit to operate, including the requirements established under division (C) of section 903.06 of the Revised Code.

(2) The director may request the attorney general, in writing, to bring an action for a civil penalty in a court of competent jurisdiction against any person that has violated or is violating section 903.02 or 903.03 of the Revised Code, rules adopted under division (A), (B), (C), (D), or (I) of section 903.10 of the Revised Code, or an order issued under division (B) of this section or division (B) of section 903.07 of the Revised Code.

(3) A person who has committed a violation for which the attorney general may bring an action for a civil penalty under division (D)(1) or (2) of this section shall pay a civil penalty of not more than ten thousand dollars per violation. Each day that a violation continues constitutes a separate violation.

(E) In addition to any other penalties imposed under this section, the director may impose an administrative penalty against an owner or operator of a concentrated animal feeding facility if the director or the director's authorized representative determines that the owner or operator is not in compliance with best management practices that are established in rules adopted under division (B) or (C) of section 903.10 of the Revised Code or in the permit to install or permit to operate issued for the facility. The administrative penalty shall not exceed five thousand dollars.

The director shall afford the owner or operator an opportunity for an adjudication hearing under Chapter 119. of the Revised Code to challenge the director's determination under this division, the director's imposition of an administrative penalty under this division, or both. The director's determination and the imposition of the administrative penalty may be appealed in accordance with section 119.12 of the Revised Code.

**Sec. 903.17.** (A) The director of agriculture may propose to require corrective actions and assess a civil penalty against an owner or operator of an animal feeding operation if the director or the director's authorized representative determines that the owner or operator is not in compliance with section 903.08 of the Revised Code, the terms and conditions of a NPDES permit, the NPDES provisions of a permit to operate, or rules adopted under division (E) of section 903.10 of the Revised Code. However, the director may impose a civil penalty only if all of the following occur:

(1) The owner or operator is notified in writing of the deficiencies resulting in noncompliance, the actions that the owner or operator must take to correct the deficiencies, and the time period within which the owner or operator must correct the deficiencies and attain compliance.

(2) After the time period specified in the notice has elapsed, the director or the director's duly authorized representative has inspected the animal feeding operation, determined that the owner or operator is still not in compliance, and issued a notice of violation to require corrective actions.

(3) The director affords the owner or operator an opportunity for an adjudication hearing under Chapter 119. of the Revised Code to challenge the director's determination that the owner or operator is not in compliance or the imposition of the civil penalty, or both. However, the owner or operator may waive the right to an adjudication hearing.

(B) If the opportunity for an adjudication hearing is waived or if, after an adjudication hearing, the director determines that a violation has occurred or is occurring, the director may issue an order and assess a civil penalty of not more than ten thousand dollars per violation against the violator. For purposes of determining the civil penalty, each day that a violation continues constitutes a separate and distinct violation. The order and the assessment of the civil penalty may be appealed in accordance with section 119.12 of the Revised Code.

(C) To the extent consistent with the Federal Water Pollution Control Act, the director shall consider technical feasibility and economic costs in issuing orders under this section.

(D)(1) The attorney general, upon the written request of the director, shall bring an action for an injunction in any court of competent jurisdiction against any person violating or threatening to violate section 903.08 of the Revised Code, the terms and conditions of a NPDES permit, the NPDES provisions of a permit to operate, rules adopted under division (E) of section 903.10 of the Revised Code, or an order issued under division (B) of this section.

(2) In lieu of seeking civil penalties under division (A) of this section, the director may request, in writing, the attorney general to bring an action for a civil penalty of not more than ten thousand dollars per violation in a court of competent jurisdiction against any person that has violated or is violating section 903.08 of the Revised Code, the terms and conditions of a NPDES permit, the NPDES provisions of a permit to operate, rules adopted under division (E) of section 903.10 of the Revised Code, or an order issued under division (B) of this section. For purposes of determining the civil penalty to be assessed under division (B) of this section, each day that a violation continues constitutes a separate and distinct violation.

(E) In addition to any other penalties imposed under this section, the director may impose an administrative penalty against an owner or operator of an animal feeding operation if the director or the director's authorized representative determines that the owner or operator has discharged pollutants into waters of the state in violation of section 903.08 of the Revised Code or the terms and conditions of a NPDES permit or the NPDES provisions of the permit to operate issued for the operation. The administrative penalty shall not exceed five thousand dollars.

The director shall afford the owner or operator an opportunity for an adjudication hearing under Chapter 119. of the Revised Code to challenge the director's determination under this division, the director's imposition of an administrative penalty under this division, or both. The director's determination and the imposition of the administrative penalty may be appealed in accordance with section 119.12 of the Revised Code.

**Sec. 903.25.** An owner or operator of an animal feeding facility who holds a permit to install, a permit to operate, or a NPDES permit or who is operating under an operation and management plan, as defined in section 939.01 of the Revised Code, developed or approved by the director of agriculture under section 939.02 of the Revised Code or by the supervisors of the appropriate soil and water conservation district under section 940.06 of the Revised Code shall not be required by any political subdivision of the state or any officer, employee, agency, board, commission, department, or

other instrumentality of a political subdivision to obtain a license, permit, or other approval pertaining to manure, insects or rodents, odor, or siting requirements for installation of an animal feeding facility.

**Sec. 905.31.** As used in sections 905.31 to 905.503 of the Revised Code:

(A) "Brand name" means a name or expression, design, or trademark used in connection with one or several grades of any type of fertilizer.

(B) "Bulk fertilizer" means any type of fertilizer in solid, liquid, or gaseous state, or any combination thereof, in a nonpackaged form.

(C) "Distribute" means to offer for sale, sell, barter, or otherwise supply fertilizer for other than manufacturing purposes.

(D) "Fertilizer" means any substance containing nitrogen, phosphorus, or potassium or any recognized plant nutrient element or compound that is used for its plant nutrient content or for compounding mixed fertilizers. "Fertilizer" does not include lime, limestone, marl, unground bone, water, residual farm products, and animal and vegetable manures unless mixed with fertilizer materials or distributed with a guaranteed analysis.

(E) "Grade" means the percentages of total nitrogen, available phosphorus or available phosphate ( $P_2O_5$ ), and soluble potassium or soluble potash ( $K_2O$ ) stated in the same terms, order, and percentage as in guaranteed analysis.

(F) "Guaranteed analysis" means:

(1) The minimum percentages of plant nutrients claimed in the following order and form:

Total Nitrogen (N)     per cent

Available phosphate ( $P_2O_5$ )     per cent

Soluble Potash ( $K_2O$ )     per cent

(2) Guaranteed analysis includes, in the following order:

(a) For bone and tankage, total phosphorus (P) or phosphate ( $P_2O_5$ );

(b) For basic slag and unacidulated phosphatic materials, available and total phosphorus (P) or phosphate ( $P_2O_5$ ) and the degree of fineness;

(c) Additional plant nutrients guaranteed expressed as percentage of elements in the order and form as prescribed by rules adopted by the director of agriculture.

(G) "Label" means any written or printed matter on the package or tag attached to it or on the pertinent delivery and billing invoice.

(H) "Manufacture" means to process, granulate, blend, mix, or alter the composition of fertilizers for distribution.

(I) "Mixed fertilizer" means any combination or mixture of fertilizer designed for use, or claimed to have value, in promoting plant growth, including fertilizer pesticide mixtures.

(J) "Net weight" means the weight of a commodity excluding any packaging in pounds or metric equivalent, as determined by a sealed weighing device or other means prescribed by rules adopted by the director.

(K) "Packaged fertilizer" means any type of fertilizer in closed containers of not over one hundred pounds or metric equivalent.

(L) "Per cent" or "percentage" means the percentage of weight.

(M) "Person" includes any partnership, association, firm, corporation, company, society, individual or combination of individuals, institution, park, or public agency administered by the state or any subdivision of the state.

(N) "Product name" means a coined or specific designation applied to an individual fertilizer material or mixture of a fixed composition and derivation.

(O) "Sale" means exchange of ownership or transfer of custody.

(P) "Official sample" means the sample of fertilizer taken and designated as official by the director.

(Q) "Specialty fertilizer" means any fertilizer designed, labeled, and distributed for uses other than the production of commercial crops.

(R) "Ton" means a net weight of two thousand pounds.

(S) "Fertilizer material" includes any of the following:

(1) A material containing not more than one of the following primary plant nutrients:

(a) Nitrogen (N);

(b) Phosphorus (P);

(c) Potassium (K).

(2) A material that has not less than eighty-five per cent of its plant nutrient content composed of a single chemical compound;

(3) A material that is derived from a residue or by-product of a plant or animal or a natural material deposit and has been processed in such a way that its plant nutrients content has not been materially changed except by purification and concentration.

(T) "Custom mixed fertilizer" means a fertilizer that is not premixed, but that is blended specifically to meet the nutrient needs of one specific customer.

(U) "Director" or "director of agriculture" means the director of agriculture or the director's designee.

(V) "Lot" means an identifiable quantity of fertilizer that may be used as an official sample.

(W) "Unit" means twenty pounds of fertilizer or one per cent of a ton.

(X) "Anhydrous ammonia equipment" means, with regard to the handling or storage of anhydrous ammonia, a container or containers with a maximum capacity of not more than four thousand nine hundred ninety-nine gallons or any appurtenances, pumps, compressors, or interconnecting pipes associated with such a container or containers. "Anhydrous ammonia equipment" does not include equipment for the manufacture of anhydrous ammonia or the storage of anhydrous ammonia either underground or in refrigerated structures.

(Y) "Anhydrous ammonia system" or "system" means, with regard to the handling or storage of anhydrous ammonia, a container or containers with a minimum capacity of not less than five thousand gallons or any appurtenances, pumps, compressors, or interconnecting pipes associated with such a container or containers. "Anhydrous ammonia system" does not include equipment for the manufacture of anhydrous ammonia or the storage of anhydrous ammonia either underground or in refrigerated structures.

(Z) "Agricultural production" means the cultivation, primarily for sale, of plants or any parts of plants on more than fifty acres. "Agricultural production" does not include the use of start-up

fertilizer applied through a planter.

(AA) "Rule" means a rule adopted under section 905.322, 905.40, or 905.44 of the Revised Code, as applicable.

(BB) "Certificate holder" means a person who has been certified to apply fertilizer under section 905.321 of the Revised Code and rules adopted under section 905.322 of the Revised Code.

(CC) "Residual farm products" has the same meaning as in section 939.01 of the Revised Code.

(DD) "Voluntary nutrient management plan" means any of the following:

(1) A nutrient management plan that is in the form of the Ohio nutrient management workbook made available by the Ohio state university;

(2) A comprehensive nutrient management plan developed by the United States department of agriculture natural resources conservation service, a technical service provider certified by the conservation service, or a person authorized by the conservation service to develop a plan;

(3) A document that is equivalent to a plan specified in division (DD)(1) or (2) of this section, that is in a form approved by the director or the director's designee, and that contains at least all of the following information:

(a) Results of soil tests conducted on land subject to the plan that comply with the field office technical guide established by the conservation service and adopted by the director in rules adopted under division (E) of section 939.02 of the Revised Code and that are not older than three years;

(b) Documentation of the method and seasonal time of utilization and application of nutrients;

(c) Identification of all nutrients applied, including manure, fertilizer, sewage sludge, and biodigester residue;

(d) Field information regarding land subject to the plan, including the location, spreadable acreage, crops grown, and actual and projected yields.

**Sec. 905.323.** (A)(1) A person who owns or operates agricultural land may do any of the following:

(a) Develop a voluntary nutrient management plan;

(b) Request any person to develop a voluntary nutrient management plan on behalf of the person who owns or operates the agricultural land;

(c) Request the supervisors of the applicable soil and water conservation district organized in accordance with Chapter 940. of the Revised Code to develop a voluntary nutrient management plan on the person's behalf.

(2) A person who owns or operates agricultural land and who has developed or has had developed a voluntary nutrient management plan under division (A)(1)(a) or (b) of this section, as applicable, may request the supervisors of the applicable soil and water conservation district, the director of agriculture, or the director's designee to approve the plan. The supervisors, director, or director's designee shall approve or disapprove the plan.

(B) If a voluntary nutrient management plan is disapproved under this section, the person who developed the plan or had it developed may request an adjudication hearing in accordance with Chapter 119. of the Revised Code.

(C) A person whose voluntary nutrient management plan is disapproved may appeal to the

court of common pleas of Franklin county.

(D) After a voluntary nutrient management plan has been approved under this section, the person who developed the plan or had it developed shall submit the plan once every five years to the supervisors of the applicable soil and water conservation district or the director for review. If after the review the supervisors or the director determines that the plan needs to be modified, the supervisors or director shall notify the person who submitted the plan. The person then shall provide for the modification of the plan. The procedures and requirements established in divisions (A) to (C) of this section apply to a modification of the plan.

**Sec. 918.41.** If the director of agriculture has not entered into an agreement with the United States department of agriculture in compliance with section 918.44 of the Revised Code, the director shall establish and maintain a state acceptance service within the department of agriculture to examine and monitor compliance by meat and poultry vendors with the specifications of the state purchase contracts awarded them under section 125.11 of the Revised Code, and by establishments, as defined in section 918.01 or 918.21 of the Revised Code, subject to state or federal inspection. State acceptance service shall be made available to such vendors and establishments within the state from eight a.m. to five p.m. Monday through Friday.

At least forty-eight hours, excluding Saturday and Sunday, before the date on which a vendor or authorized representative from such an establishment desires examination and monitoring of the production of meat products, as defined in section 918.01 of the Revised Code, or poultry products, as defined in section 918.21 of the Revised Code, that the vendor or establishment intends to supply to the state under a state purchase contract, a vendor or authorized representative from such an establishment shall contact the state acceptance service and request examination and monitoring. A state acceptor shall examine and monitor the production of the meat or poultry products to determine whether there is compliance with the state purchase contract specifications. The containers of products found to be in compliance shall be sealed, dated, and marked with an official mark. The state acceptor shall provide an official acceptance certificate to accompany each shipment to its destination.

The director shall train and appoint as state acceptors inspectors, as defined in sections 918.01 and 918.21 of the Revised Code.

Acceptance may be provided by the United States department of agriculture at the option of the vendor or authorized representative of such an establishment.

**Sec. 931.01.** As used in this chapter:

(A) "Agriculture" has the same meaning as in section 1.61 of the Revised Code.

(B) "Best management practices" means the engagement of agricultural production and management, including practices such as manure handling, tillage, forestry management, and similar practices, in a manner that is generally accepted in the agriculture industry and that is approved by any of the following:

- (1) The United States department of agriculture;
- (2) The natural resources conservation service in the United States department of agriculture;
- (3) The department of agriculture;
- (4) A soil and water conservation district established under Chapter 940. of the Revised

Code;

(5) With respect to organic or sustainable production methods, a conservation professional whom the director of agriculture approves as having expertise in those methods.

(C) "Contiguous farmland" means any of the following:

- (1) Geographically contiguous property used for agriculture;
- (2) Noncontiguous property used for agriculture that is owned by one person and connected by a right-of-way that the person controls and to which the public does not have access;
- (3) Two or more pieces of property used for agriculture that would be geographically contiguous but for the fact that the property is separated by a public or private right-of-way or rights-of-way or by rivers, streams, creeks, or other bodies of water.

**Sec. 931.02.** (A) Land that is located in the unincorporated area of a township or county may be enrolled in an agricultural security area through the submittal of an application to the board of township trustees of each township and to the board of county commissioners of each county in which the land is located requesting the establishment of such an area. Land that is located in a municipal corporation and land that is located in territory that is proposed to be annexed to a municipal corporation by a pending proceeding before the board of county commissioners or in any court of competent jurisdiction shall not be included in an agricultural security area.

If all of the land sought to be enrolled in the agricultural security area is owned by the same person, that person shall submit the application to the required boards. If the land sought to be enrolled consists of parcels owned by different persons who have aggregated their parcels, either each owner may submit a separate application to the required boards or all of the owners collectively may submit one application for the entire agricultural security area to the required boards.

An application shall be on the form that the director of agriculture prescribes. The director shall provide copies of the application form to county auditors.

An application shall be signed by each applicant who is submitting it and shall contain all of the following:

- (1) The first, middle, and last name of the applicant or applicants;
- (2) Information concerning any property interest in the land sought to be enrolled in an agricultural security area that is held by a person other than the applicant or applicants, including, without limitation, mineral rights or easements in the land that are held by a person other than the applicant or applicants and any other interest in the land that may not be conducive to agriculture and that is held by another person;
- (3) A statement by each applicant who is submitting the application that the applicant will not initiate, approve, or finance any new development for nonagricultural purposes on the land that is proposed to be enrolled in an agricultural security area during the ten-year period of the enrollment, except as is otherwise authorized under division (A) of section 931.04 of the Revised Code. For purposes of division (A)(3) of this section, "new development" includes, without limitation, an applicant's transfer to another person of the ownership of a property interest in the land that occurs during the period beginning on the date that the application is submitted and ending on the date that the ten-year period of enrollment is scheduled to expire, except as otherwise provided in division (D) of this section. "New development" does not include taking any actions that are authorized under property rights in the land, such as mineral rights or easements, that were transferred to a person

other than an applicant prior to the date that the application is submitted. In addition, "new development" does not include the construction, modification, or operation of wind energy-producing facilities, including windmills and wind turbines, the grant of easements for or the construction, modification, or operation of transmission or distribution lines for electricity, gas, or oil or of any gathering or production lines for oil or gas, or the grant of new mineral leases, or the drilling or operation of any oil or gas well on or in connection with the land, provided that such activities do not cause the land to become ineligible for valuation and assessment for real property tax purposes in accordance with its current agricultural use value under sections 5713.30 to 5713.38 of the Revised Code.

(4) A listing of all administrative enforcement orders issued to each applicant who is submitting the application, all civil actions in which an applicant was determined by the trier of fact to be liable in damages or was the subject of injunctive relief or another type of civil relief, and all criminal actions in which an applicant pleaded guilty or was convicted, during the ten years immediately preceding the date of submission of the application, in connection with any violation of environmental laws or similar laws of another state. As used in division (A)(4) of this section, "environmental laws" has the same meaning as in section 3745.70 of the Revised Code.

(5) A statement from the natural resources conservation service in the United States department of agriculture, a soil and water conservation district with jurisdiction over the land to which the application applies, or any other conservation professional approved by the director that, at the time of the application, each applicant who is submitting the application is complying with best management practices;

(6) A map that complies with all of the following:

(a) Is prepared by a regional or county planning commission established under section 713.21 of the Revised Code; a professional engineer, including a county engineer, or surveyor registered under Chapter 4733. of the Revised Code; a soil and water conservation district created pursuant to section 940.03 of the Revised Code; or the natural resources conservation service;

(b) Identifies the area of land to which the application applies and includes the corresponding parcel number that the county auditor has assigned under section 319.28 of the Revised Code to each parcel of land that comprises that area;

(c) Shows the boundaries of the land to be enrolled in an agricultural security area;

(d) Shows the names and locations of all streams, creeks, or other bodies of water, roads, rights-of-way, and railroads together with any existing residential, recreational, commercial, or industrial facilities that are situated on the land to be included in the area and within five hundred feet of the perimeter of the area. The map also shall show the location of all utility, water, and sewer lines that are situated on the land to be included in the area and within five hundred feet of the perimeter of the area unless the board of county commissioners of each county and the board of township trustees of each township in which the land is located exempts the application from that requirement because the information generally is not readily available.

(e) Indicates the date on which the map was prepared;

(f) Identifies the person or persons who prepared the map.

(7) A list of the other boards of township trustees and boards of county commissioners to whom an application has been submitted.



An application submitted under this section is a public record.

A board of township trustees and a board of county commissioners each may establish a reasonable fee or schedule of fees to be paid at the time that an application is submitted for the purpose of paying the costs of public notice and certified mail that are incurred in any proceedings conducted under this chapter. The clerk of the board shall maintain an accurate and detailed accounting of all money that is received and expended in the processing of an application and shall return to the applicant any unused portion of the fee or fees after the conclusion of the proceedings.

(B) An area shall be established as an agricultural security area when all of the following criteria are satisfied:

(1) The area consists of not less than five hundred acres of contiguous farmland that is located in the unincorporated area of a township or county. In order to satisfy this requirement, two or more owners of contiguous farmland may aggregate their land.

(2) The land forming the area is in an agricultural district or districts established under Chapter 929. of the Revised Code.

(3) The land forming the area is valued and assessed for real property tax purposes in accordance with its current agricultural use value under sections 5713.30 to 5713.38 of the Revised Code. Land forming the area that is a portion of a farm on which is located a dwelling house, a yard, or outbuildings such as a barn or garage shall be deemed to satisfy the criteria established in divisions (B)(1) and (3) of this section.

(4) Each application submitted by the owner or owners of the land forming the area is approved under section 931.03 of the Revised Code by the boards of township trustees of all of the townships in which the land is located.

(5) Each application submitted by the owner or owners of the land forming the area is approved under section 931.03 of the Revised Code by the boards of county commissioners of all of the counties in which the land is located.

(C) Additional contiguous farmland may be enrolled in an existing agricultural security area during a partially elapsed ten-year enrollment period either by a landowner who already has land enrolled in the agricultural security area or by a landowner who does not already have land enrolled in the agricultural security area. To enroll additional contiguous land in an existing agricultural security area under this division, a landowner shall obtain permission from each owner of land that already is enrolled in the agricultural security area, submit an application in accordance with this section, and obtain approval of the application from all appropriate boards of township trustees and boards of county commissioners in accordance with section 931.03 of the Revised Code. Enrollment of the additional land in the existing agricultural security area shall continue until the expiration of the current, partially elapsed ten-year enrollment period and may be renewed in accordance with section 931.06 of the Revised Code.

(D) If an owner of land that is enrolled in an agricultural security area transfers the land to another person during a partially elapsed ten-year enrollment period, the land may remain in the agricultural security area until the expiration of that period, provided that both of the following apply:

(1) The transferee certifies and submits a statement, together with the transferee's first, middle, and last name and a description of the transferred land, to the appropriate boards of township

trustees and boards of county commissioners specifying that, in accordance with division (A)(3) of this section, the transferee will not initiate, approve, or finance any new development for nonagricultural purposes on the transferred land during the remainder of the partially elapsed ten-year enrollment period. Upon receipt of the statement, the boards of township trustees and boards of county commissioners shall adopt a resolution acknowledging the receipt.

(2) The transferred land continues to satisfy the criteria established in divisions (B)(2) and (3) of this section during the remainder of the partially elapsed ten-year enrollment period.

Divisions (A), (B), and (C) of section 931.03 of the Revised Code do not apply to the continued inclusion of such transferred land in an agricultural security area. Upon the expiration of the partially elapsed ten-year enrollment period, enrollment in the agricultural security area may be renewed in accordance with section 931.06 of the Revised Code.

**Sec. 939.01.**

**Sec. 1511.02 939.02.** The chief of the division of soil and water resources, subject to the approval of the director of natural resources, shall do all of the following:

(A) Provide administrative leadership to soil and water conservation districts in planning, budgeting, staffing, and administering district programs and the training of district supervisors and personnel in their duties, responsibilities, and authorities as prescribed in this chapter and Chapter 1515. of the Revised Code;

(B) Administer this chapter and Chapter 1515. of the Revised Code pertaining to state responsibilities and provide staff assistance to the Ohio soil and water conservation commission in exercising its statutory responsibilities;

(C) Assist in expediting state responsibilities for watershed development and other natural resource conservation works of improvement;

(D) Coordinate the development and implementation of cooperative programs and working agreements between soil and water conservation districts and divisions or sections of the department of natural resources, or other agencies of local, state, and federal government;

(E) Subject to the approval of the Ohio soil and water conservation commission, adopt, amend, or rescind rules pursuant to Chapter 119. of the Revised Code. Rules adopted pursuant to this section:

(1) Shall establish technically feasible and economically reasonable standards to achieve a level of management and conservation practices in farming or silvicultural operations that will abate wind or water erosion of the soil or abate the degradation of the waters of the state by residual farm products, manure, or soil sediment, including substances attached thereto, and establish criteria for determination of the acceptability of such management and conservation practices;

(2) Shall establish technically feasible and economically reasonable standards to achieve a level of management and conservation practices that will abate wind or water erosion of the soil or abate the degradation of the waters of the state by soil sediment in conjunction with land grading, excavating, filling, or other soil-disturbing activities on land used or being developed for nonfarm commercial, industrial, residential, or other nonfarm purposes, and establish criteria for determination of the acceptability of such management and conservation practices. The standards shall be designed to implement applicable areawide waste treatment management plans prepared under section 208 of the "Federal Water Pollution Control Act," 86 Stat. 816 (1972), 33 U.S.C.A.

1288, as amended. The standards and criteria shall not apply in any municipal corporation or county that adopts ordinances or rules pertaining to sediment control, nor to lands being used in a strip mine operation as defined in section 1513.01 of the Revised Code, nor to lands being used in a surface mining operation as defined in section 1514.01 of the Revised Code.

(3) May recommend criteria and procedures for the approval of urban sediment pollution abatement plans and issuance of permits prior to any grading, excavating, filling, or other whole or partial disturbance of five or more contiguous acres of land owned by one person or operated as one development unit and require implementation of such a plan. Areas of less than five contiguous acres are not exempt from compliance with other provisions of this chapter and rules adopted under them.

(4) Shall establish procedures for administration of rules for agricultural pollution abatement and urban sediment pollution abatement and for enforcement of rules for agricultural pollution abatement;

(5) Shall specify the pollution abatement practices eligible for state cost sharing and determine the conditions for eligibility, the construction standards and specifications, the useful life, the maintenance requirements, and the limits of cost sharing for those practices. Eligible practices shall be limited to practices that address agricultural or silvicultural operations and that require expenditures that are likely to exceed the economic returns to the owner or operator and that abate soil erosion or degradation of the waters of the state by residual farm products, manure, or soil sediment, including pollutants attached thereto.

(6) Shall establish procedures for administering grants to owners or operators of agricultural land or animal feeding operations for the implementation of operation and management plans;

(7) Shall establish procedures for administering grants to soil and water conservation districts for urban sediment pollution abatement programs, specify the types of projects eligible for grants, establish limits on the availability of grants, and establish requirements governing the execution of projects to encourage the reduction of erosion and sedimentation associated with soil-disturbing activities;

(8) Shall do all of the following with regard to composting conducted in conjunction with agricultural operations:

(a) Provide for the distribution of educational material concerning composting to the offices of OSU extension for the purposes of section 1511.022 of the Revised Code;

(b) Establish methods, techniques, or practices for composting dead animals, or particular types of dead animals, that are to be used at such operations, as the chief considers to be necessary or appropriate;

(c) Establish requirements and procedures governing the review and approval or disapproval of composting plans by the supervisors of soil and water conservation districts under division (Q) of section 1515.08 of the Revised Code.

(9) Shall be adopted, amended, or rescinded after the chief does all of the following:

(a) Mails notice to each statewide organization that the chief determines represents persons or local governmental agencies who would be affected by the proposed rule, amendment thereto, or rescission thereof at least thirty-five days before any public hearing thereon;

(b) Mails a copy of each proposed rule, amendment thereto, or rescission thereof to any person who requests a copy, within five days after receipt of the request;

(c) Consults with appropriate state and local governmental agencies or their representatives, including statewide organizations of local governmental officials, industrial representatives, and other interested persons;

(d) If the rule relates to agricultural pollution abatement, develops an economic impact statement concerning the effect of the proposed rule or amendment.

(10) Shall not conflict with air or water quality standards adopted pursuant to section 3704.03 or 6111.041 of the Revised Code. Compliance with rules adopted pursuant to this section does not affect liability for noncompliance with air or water quality standards adopted pursuant to section 3704.03 or 6111.041 of the Revised Code. The application of a level of management and conservation practices recommended under this section to control windblown soil from farming operations creates a presumption of compliance with section 3704.03 of the Revised Code as that section applies to windblown soil.

(11) Insofar as the rules relate to urban sediment pollution, shall not be applicable in a municipal corporation or county that adopts ordinances or rules for urban sediment control, except that a municipal corporation or county that adopts such ordinances or rules may receive moneys for urban sediment control that are disbursed by the board of supervisors of the applicable soil and water conservation district under division (N) of section 1515.08 of the Revised Code. The rules shall not exempt any person from compliance with municipal ordinances enacted pursuant to Section 3 of Article XVIII, Ohio Constitution.

(F) Cost share with landowners on practices established pursuant to division (E)(5) of this section as moneys are appropriated and available for that purpose. Any practice for which cost share is provided shall be maintained for its useful life. Failure to maintain a cost share practice for its useful life shall subject the landowner to full repayment to the division.

(G) Issue orders requiring compliance with any rule adopted under division (E)(1) of this section or with section 1511.022 of the Revised Code. Before the chief issues an order, the chief shall afford each person allegedly liable an adjudication hearing under Chapter 119. of the Revised Code. The chief may require in an order that a person who has caused agricultural pollution by failure to comply with the standards established under division (E)(1) of this section operate under an operation and management plan approved by the chief under this section. The chief shall require in an order that a person who has failed to comply with division (A) of section 1511.022 of the Revised Code prepare a composting plan in accordance with rules adopted under division (E)(8)(c) of this section and operate in accordance with that plan or that a person who has failed to operate in accordance with such a plan begin to operate in accordance with it. Each order shall be issued in writing and contain a finding by the chief of the facts upon which the order is based and the standard that is not being met.

(H) Employ field assistants and such other employees as are necessary for the performance of the work prescribed by Chapter 1515. of the Revised Code, for performance of work of the division, and as agreed to under working agreements or contractual arrangements with soil and water conservation districts, prescribe their duties, and fix their compensation in accordance with such schedules as are provided by law for the compensation of state employees.

All employees of the division, unless specifically exempted by law, shall be employed subject to the classified civil service laws in force at the time of employment.

(I) In connection with new or relocated projects involving highways, underground cables, pipelines, railroads, and other improvements affecting soil and water resources, including surface and subsurface drainage:

(1) Provide engineering service as is mutually agreeable to the Ohio soil and water conservation commission and the director to aid in the design and installation of soil and water conservation practices as a necessary component of such projects;

(2) Maintain close liaison between the owners of lands on which the projects are executed, soil and water conservation districts, and authorities responsible for such projects;

(3) Review plans for such projects to ensure their compliance with standards developed under division (E) of this section in cooperation with the department of transportation or with any other interested agency that is engaged in soil or water conservation projects in the state in order to minimize adverse impacts on soil and water resources adjacent to or otherwise affected by these projects;

(4) Recommend measures to retard erosion and protect soil and water resources through the installation of water impoundment or other soil and water conservation practices;

(5) Cooperate with other agencies and subdivisions of the state to protect the agricultural status of rural lands adjacent to such projects and control adverse impacts on soil and water resources.

(J) Collect, analyze, inventory, and interpret all available information pertaining to the origin, distribution, extent, use, and conservation of the soil resources of the state;

(K) Prepare and maintain up-to-date reports, maps, and other materials pertaining to the soil resources of the state and their use and make that information available to governmental agencies, public officials, conservation entities, and the public;

(L) Provide soil and water conservation districts with technical assistance including on-site soil investigations and soil interpretation reports on the suitability or limitations of soil to support a particular use or to plan soil conservation measures. The assistance shall be upon such terms as are mutually agreeable to the districts and the department of natural resources.

(M) Assist local government officials in utilizing land use planning and zoning, current agricultural use value assessment, development reviews, and land management activities;

(N) When necessary for the purposes of this chapter or Chapter 1515. of the Revised Code, develop or approve operation and management plans.

This section does not restrict the manure of domestic or farm animals defecated on land outside an animal feeding operation or runoff therefrom into the waters of the state.

**Sec. ~~1511.021~~ 939.03.** (A) Any person who owns or operates agricultural land or an animal feeding operation may develop and operate under an operation and management plan approved by the chief of the division of soil and water resources under section 1511.02 of the Revised Code or by the supervisors of the applicable soil and water conservation district under section 1515.08 of the Revised Code.

(B) Any person who wishes to make a complaint regarding nuisances involving agricultural pollution may do so orally or by submitting a written, signed, and dated complaint to the chief or to the chief's designee. After receiving an oral complaint, the chief or the chief's designee may cause an investigation to be conducted to determine whether agricultural pollution has occurred or is

imminent. After receiving a written, signed, and dated complaint, the chief or the chief's designee shall cause such an investigation to be conducted.

(C) In a private civil action for nuisances involving agricultural pollution, it is an affirmative defense if the person owning, operating, or otherwise responsible for agricultural land or an animal feeding operation is operating under and in substantial compliance with an approved operation and management plan developed under division (A) of this section, with an operation and management plan developed by the chief under section 1511.02 of the Revised Code or by the supervisors of the applicable soil and water conservation district under section 1515.08 of the Revised Code, or with an operation and management plan required by an order issued by the chief under division (G) of section 1511.02 of the Revised Code. Nothing in this section is in derogation of the authority granted to the chief in division (E) of section 1511.02 and in section 1511.07 of the Revised Code.

**Sec. ~~1511.022~~ 939.04.** (A) Any person who owns or operates an agricultural operation, or owns the animals raised by the owner or operator of an agricultural operation, and who wishes to conduct composting of dead animals resulting from the agricultural operation shall do both of the following:

(1) Participate in an educational course concerning composting conducted by OSU extension and obtain a certificate of completion for the course;

(2) Use the appropriate method, technique, or practice of composting established in rules adopted under division (E)(8) of section 1511.02 of the Revised Code.

(B) Any person who fails to comply with division (A) of this section shall prepare and operate under a composting plan in accordance with an order issued by the chief of the division of soil and water resources under division (G) of section 1511.02 of the Revised Code. If the person's proposed composting plan is disapproved by the board of supervisors of the appropriate soil and water conservation district under division (Q)(3) of section 1515.08 of the Revised Code, the person may appeal the plan disapproval to the chief, who shall afford the person a hearing. Following the hearing, the chief shall uphold the plan disapproval or reverse it. If the chief reverses the disapproval, the plan shall be deemed approved.

**Sec. ~~1511.05~~ 939.05.** The chief of the division of soil and water resources, subject to approval of the terms of the agreement by the soil and water conservation commission, shall enter into cooperative agreements with the board of supervisors of any soil and water conservation district desiring to enter into such agreements pursuant to section 1515.08 of the Revised Code. Such agreements shall be entered into to obtain compliance with rules and orders of the chief pertaining to agricultural pollution abatement and urban sediment pollution abatement.

The chief or any person designated by the chief may upon obtaining agreement with the owner, tenant, or manager of any land, public or private, enter thereon to make inspections to determine whether or not there is compliance with the rules adopted under division (E)(1) of section 1511.02 of the Revised Code. Upon reason to believe there is a violation, the chief or the chief's designee may apply for and a judge of the court of common pleas for the county where the land is located may issue an appropriate inspection warrant as necessary to achieve the purposes of this chapter.

**Sec. ~~1511.03~~ 939.06.** The chief of the division of soil and water resources may enter into contracts or agreements, with the approval of the director of natural resources, with any agency of the

United States government, or any other public or private agency, or organization, for the performance of the prescribed duties of the division, or for accomplishing cooperative projects within the designated duties of the division.

**Sec. 939.07.**

**~~1511.10~~ 939.08.** (A) Except as provided in division (B) of this section, no person in the western basin shall surface apply manure under any of the following circumstances:

- (1) On snow-covered or frozen soil;
- (2) When the top two inches of soil are saturated from precipitation;
- (3) When the local weather forecast for the application area contains greater than a fifty per cent chance of precipitation exceeding one-half inch in a twenty-four-hour period.

(B) Division (A) of this section does not apply if a person in the western basin applies manure under any of the following circumstances:

- (1) The manure is injected into the ground.
- (2) The manure is incorporated within twenty-four hours of surface application.
- (3) The manure is applied onto a growing crop.
- (4) In the event of an emergency, the director of agriculture or the director's designee provides written consent and the manure application is made in accordance with procedures established in the United States department of agriculture natural resources conservation service practice standard code 590 prepared for this state.

(C)(1) Upon receiving a complaint by any person or upon receiving information that would indicate a violation of this section, the director or the director's designee may investigate or make inquiries into any alleged failure to comply with this section.

(2) After receiving a complaint by any person or upon receiving information that would indicate a violation of this section, the director or the director's designee may enter at reasonable times on any private or public property to inspect and investigate conditions relating to any such alleged failure to comply with this section.

(3) If an individual denies access to the individual's property, the director may apply to a court of competent jurisdiction in the county in which the premises is located for a search warrant authorizing access to the premises for the purposes of this section.

(4) The court shall issue the search warrant for the purposes requested if there is probable cause to believe that the person is not in compliance with this section. The finding of probable cause may be based on hearsay, provided that there is a reasonable basis for believing that the source of the hearsay is credible.

(D) This section does not affect any restrictions established in Chapter 903. of the Revised Code or otherwise apply to those entities or facilities that are permitted as concentrated animal feeding facilities under that chapter.

(E) As used in this section, "western basin" has the same meaning as in section 905.326 of the Revised Code.

**~~1511.11~~ 939.09.** (A) Except as provided in division (D) of this section, the director of agriculture may assess a civil penalty against a person that violates section 939.08 of the Revised Code. The director may impose a civil penalty only if the director affords the person an opportunity for an adjudication hearing under Chapter 119. of the Revised Code to challenge the director's

determination that the person violated section 939.08 of the Revised Code. The person may waive the right to an adjudication hearing.

(B) If the opportunity for an adjudication hearing is waived or if, after an adjudication hearing, the director determines that a violation has occurred or is occurring, the director may issue an order requiring compliance with section 939.08 of the Revised Code and assess the civil penalty. The order and the assessment of the civil penalty may be appealed in accordance with section 119.12 of the Revised Code.

(C) A person that has violated section 939.08 of the Revised Code shall pay a civil penalty in an amount established in rules. Each day during which manure is applied in violation of section 939.08 of the Revised Code constitutes a separate violation.

(D)(1) The owner or operator of a small agricultural operation or a medium agricultural operation may apply to the director for an exemption from the prohibition established in division (A) of section 939.08 of the Revised Code. If the director or the director's designee determines that it is appropriate, the director or the director's designee may issue such an exemption as follows:

(a) For a medium agricultural operation, for a period ending not later than one year after July 3, 2015;

(b) For a small agricultural operation, for a period ending not later than two years after July 3, 2015.

(2) The director shall establish the form of the application for an exemption in rules adopted under division (E) of this section.

(3) The director or the director's designee shall approve or deny an application for an exemption submitted under division (D)(1) of this section not later than thirty days after an application has been submitted.

(4) The director or the director's designee may deny an application for an exemption or revoke an exemption approved under division (D)(3) of this section if the director or the director's designee determines that the owner or operator is not in substantial compliance with this chapter and rules adopted under it other than violating division (A) of section 939.08 of the Revised Code.

(5) An owner or operator that has been issued an exemption under this section is not subject to civil penalties assessed for a violation of division (A) of section 939.08 of the Revised Code during the exemption period.

(6) An owner or operator that has an initial application for an exemption that is pending the director's review is not subject to civil penalties assessed for a violation of division (A) of section 939.08 of the Revised Code.

(E) The director shall adopt rules in accordance with Chapter 119. of the Revised Code that establish both of the following:

(1) The amount of the civil penalty assessed under this section. The civil penalty shall be not more than ten thousand dollars for each violation.

(2) Requirements governing the application form for an exemption submitted under division (D) of this section. The rules shall require the form to include all of the following:

(a) A statement from the applicant affirming that the applicant understands the provisions of sections 939.08 and 939.09 of the Revised Code;

(b) A statement from the applicant affirming that the applicant understands that the applicant



must be in compliance with procedures established in the United States department of agriculture natural resources conservation service practice standard code 590 prepared for this state except procedures that are in conflict with this section and section 939.08 of the Revised Code;

(c) A place for the applicant to explain the reasons for the necessity for the exemption;

(d) A place on the form that provides information on programs that may assist an applicant with methods to comply with division (A) of section 939.08 of the Revised Code;

(e) A place on the form that provides the applicant an opportunity to request technical assistance or information from the director or the applicable soil and water conservation district to assist the applicant to comply with division (A) of section 939.08 of the Revised Code.

(F) Money collected from civil penalties assessed under this section shall be paid into the state treasury to the credit of the agricultural pollution abatement fund created in section 939.10 of the Revised Code.

(G) As used in this section:

(1) "Small agricultural operation" means an agricultural operation in the western basin that stables or confines fewer than any of the numbers of animals specified in divisions (Q)(1)(a) to (m) of section 903.01 of the Revised Code.

(2) "Medium agricultural operation" means an agricultural operation in the western basin that stables or confines any of the numbers of animals specified in divisions (Q)(1)(a) to (m) of section 903.01 of the Revised Code.

(3) "Western basin" has the same meaning as in section 905.326 of the Revised Code.

**Sec. ~~1511.071~~ 939.10.** There is hereby created in the state treasury the agricultural pollution abatement fund, which shall be administered by the chief of the division of soil and water resources. The fund may be used to pay costs incurred by the division under division (A)(3) of section 1511.07 of the Revised Code in investigating, mitigating, minimizing, removing, or abating any pollution of the waters of the state caused by agricultural pollution or an unauthorized release, spill, or discharge of manure into or upon the environment that requires emergency action to protect the public health.

Any person responsible for causing or allowing agricultural pollution or an unauthorized release, spill, or discharge is liable to the chief for any costs incurred by the division and soil and water conservation districts in investigating, mitigating, minimizing, removing, or abating the agricultural pollution or release, spill, or discharge, regardless of whether those costs were paid out of the agricultural pollution abatement fund or any other fund of the division or a district. Upon the request of the chief, the attorney general shall bring a civil action against the responsible person to recover those costs. Moneys recovered under this section shall be paid into the agricultural pollution abatement fund.

**Sec. ~~1515.01~~ 940.01.** As used in this chapter:

(A) "Soil and water conservation district" means a district organized in accordance with this chapter.

(B) "Supervisor" means one of the members of the governing body of a district.

(C) "Landowner," "owner," or "owner of land" means an owner of record as shown by the records in the office of the county recorder. With respect to an improvement or a proposed improvement, "landowner," "owner," or "owner of land" also includes any public corporation and the director of any department, office, or institution of the state that is affected by the improvement or

that would be affected by the proposed improvement, but that does not own any right, title, estate, or interest in or to any real property.

(D) "Land occupier" or "occupier of land" means any person, firm, or corporation that controls the use of land whether as landowner, lessee, renter, or tenant.

(E) "Due notice" means notice published at least twice, stating time and place, with an interval of at least thirteen days between the two publication dates, in a newspaper of general circulation within a soil and water conservation district.

(F) "Agricultural pollution" means failure to use management or conservation practices in farming or silvicultural operations to abate wind or water erosion of the soil or to abate the degradation of the waters of the state by residual farm products, manure, or soil sediment, including substances attached thereto.

(G) "Urban sediment pollution" means failure to use management or conservation practices to abate wind or water erosion of the soil or to abate the degradation of the waters of the state by soil sediment in conjunction with land grading, excavating, filling, or other soil disturbing activities on land used or being developed for nonfarm commercial, industrial, residential, or other nonfarm purposes, except lands being used in a strip mine operation as defined in section 1513.01 of the Revised Code and except lands being used in a surface mining operation as defined in section 1514.01 of the Revised Code.

(H) "Uniform assessment" means an assessment that is both of the following:

(1) Based upon a complete appraisal of each parcel of land, together with all improvements thereon, within a project area and of the benefits or damages brought about as a result of the project that is determined by criteria applied equally to all parcels within the project area;

(2) Levied upon the parcels at a uniform rate on the basis of the appraisal.

(I) "Varied assessment" means any assessment that does not meet the criteria established in division (H) of this section.

(J) "Project area" means an area determined and certified by the supervisors of a soil and water conservation district under section 1515.19 of the Revised Code.

(K) "Benefit" or "benefits" means advantages to land and owners, to public corporations, and to the state resulting from drainage, conservation, control, and management of water and from environmental, wildlife, and recreational improvements. "Benefit" or "benefits" includes, but is not limited to, any of the following factors:

(1) Elimination or reduction of damage from flooding;

(2) Removal of water conditions that jeopardize public health, safety, or welfare;

(3) Increased value of land resulting from an improvement;

(4) Use of water for irrigation, storage, regulation of stream flow, soil conservation, water supply, or any other incidental purpose;

(5) Providing an outlet for the accelerated runoff from artificial drainage if a stream, watercourse, channel, or ditch that is under improvement is called upon to discharge functions for which it was not designed. Uplands that have been removed from their natural state by deforestation, cultivation, artificial drainage, urban development, or other human methods shall be considered to be benefited by an improvement that is required to dispose of the accelerated flow of water from the uplands.

(L) "Improvement" or "conservation works of improvement" means an improvement that is made under the authority established in division (C) of section 1515.08 of the Revised Code.

(M) "Land" has the same meaning as in section 6131.01 of the Revised Code.

(N) "Manure," "operation and management plan," and "residual farm products" have the same meanings as in section 1511.01 of the Revised Code.

(O) "Voluntary nutrient management plan" has the same meaning as in section 905.31 of the Revised Code.

**Sec. ~~1515.02~~ 940.02.** There is hereby established in the department of natural resources the Ohio soil and water conservation commission. The commission shall consist of seven members of equal status and authority, six of whom shall be appointed by the governor with the advice and consent of the senate, and one of whom shall be designated by resolution of the board of directors of the Ohio federation of soil and water conservation districts. The directors of agriculture, environmental protection, and natural resources, the vice-president for agricultural administration of the Ohio state university, and an officer of the Ohio federation of soil and water conservation districts, or their designees, may serve as ex officio members of the commission, but without the power to vote. A vacancy in the office of an appointed member shall be filled by the governor, with the advice and consent of the senate. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Of the appointed members, four shall be persons who have a knowledge of or interest in agricultural production and the natural resources of the state. One member shall represent rural interests and one member shall represent urban interests. Not more than three of the appointed members shall be members of the same political party.

Terms of office of the member designated by the board of directors of the federation and the members appointed by the governor shall be for four years, commencing on the first day of July and ending on the thirtieth day of June.

Each appointed member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any appointed member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

The commission shall organize by selecting from its members a chairperson and a vice-chairperson. The commission shall hold at least one regular meeting in each quarter of each calendar year and shall keep a record of its proceedings, which shall be open to the public for inspection. Special meetings may be called by the chairperson and shall be called by the chairperson upon receipt of a written request signed by two or more members of the commission. Written notice of the time and place of each meeting shall be sent to each member of the commission. A majority of the commission shall constitute a quorum.

The commission may adopt rules as necessary to carry out the purposes of this chapter, subject to Chapter 119. of the Revised Code.

The governor may remove any appointed member of the commission at any time for inefficiency, neglect of duty, or malfeasance in office, after giving to the member a copy of the charges against the member and an opportunity to be heard publicly in person or by counsel in the member's defense. Any such act of removal by the governor is final. A statement of the findings of

the governor, the reason for the governor's action, and the answer, if any, of the member shall be filed by the governor with the secretary of state and shall be open to public inspection.

All members of the commission shall be reimbursed for the necessary expenses incurred by them in the performance of their duties as members.

Upon recommendation by the commission, the director of natural resources shall designate an executive secretary and provide staff necessary to carry out the powers and duties of the commission.

The commission shall do all of the following:

(A) Determine distribution of funds under section 1515.14 of the Revised Code, recommend to the director of natural resources and other agencies the levels of appropriations to special funds established to assist soil and water conservation districts, and recommend the amount of federal funds to be requested and policies for the use of such funds in support of soil and water conservation district programs;

(B) Assist in keeping the supervisors of soil and water conservation districts informed of their powers and duties, program opportunities, and the activities and experience of all other districts, and facilitate the interchange of advice, experience, and cooperation between the districts;

(C) Seek the cooperation and assistance of the federal government or any of its agencies, and of agencies of this state, in the work of the districts;

(D) Adopt appropriate rules governing the conduct of elections provided for in this chapter, subject to Chapter 119. of the Revised Code, provided that only owners and occupiers of lands situated within the boundaries of the districts or proposed districts to which the elections apply shall be eligible to vote in the elections;

(E) Recommend to the director priorities for planning and construction of small watershed projects, and make recommendations to the director concerning coordination of programs as proposed and implemented in agreements with soil and water conservation districts;

(F) Recommend to the director, the governor, and the general assembly programs and legislation with respect to the operations of soil and water conservation districts that will encourage proper soil, water, and other natural resource management and promote the economic and social development of the state.

**Sec. ~~1515.03~~ 940.03.** Each county shall have a soil and water conservation district coextensive with the geographic area of the county, and each district shall constitute a political subdivision of this state.

**Sec. ~~1515.05~~ 940.04.** Each soil and water conservation district shall be administered by a board consisting of the five supervisors. Elections of supervisors shall be conducted by the Ohio soil and water conservation commission pursuant to rules it adopts under Chapter 119. of the Revised Code. The term of each supervisor shall be for three years, except that supervisors holding office on May 2, 1980, shall serve the terms to which they were elected or appointed under former section 1515.05 of the Revised Code. Due notice of election of supervisors shall be given by the commission. Successors to fill unexpired terms may be appointed by the commission on the unanimous recommendation of the remaining supervisors. In any case in which a unanimous recommendation cannot be agreed upon, a successor to fill an unexpired term shall be elected in the same manner in which ~~his~~ the supervisor's predecessor was elected.

Eligible voters and candidates for supervisor shall be at least eighteen years of age by the day

of election. Candidates shall reside in the district in which they are running for office.

**Sec. 1515.07 940.05.** The governing body of a soil and water conservation district shall consist of five supervisors, as provided for in section 1515.05 of the Revised Code.

The supervisors shall organize annually by selecting a ~~chairman~~ chairperson, a secretary, and a treasurer. They shall designate one of their members as fiscal agent. A majority of the five supervisors shall constitute a quorum. The concurrence of a majority of the five supervisors in any matter shall be required for its determination. A supervisor shall receive no compensation for ~~his~~ the supervisor's services, except when both of the following occur:

(A) A district board of supervisors designates one or more of its supervisors to represent the district on a joint district board or if an agency or instrumentality of the United States, of this state, or of a political subdivision of this state requires or requests district board representation;

(B) Such compensation is provided for by public moneys other than moneys in the special fund of the local district created pursuant to section 1515.10 of the Revised Code.

A supervisor is entitled to be reimbursed for the necessary expenses incurred in the discharge of ~~his~~ official duties.

The supervisors shall furnish to the Ohio soil and water conservation commission, upon its request, copies of rules, orders, contracts, forms, and other documents they adopt or employ and other information concerning their activities as it requires in the performance of its duties under this chapter.

At least once each year, a district shall submit to the commission a report of progress and operations, including a summary of receipts and disbursements during the period covered by the report. A district shall submit additional financial reports as requested by the commission.

The supervisors shall provide for the execution of surety bonds for all employees and officers who are entrusted with funds and shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions and orders issued or adopted. Any supervisor may be removed by the commission upon notice and hearing for neglect of duty or malfeasance in office.

**Sec. 1515.08 940.06.** The supervisors of a soil and water conservation district have the following powers in addition to their other powers:

(A) To conduct surveys, investigations, and research relating to the character of soil erosion, floodwater and sediment damages, and the preventive and control measures and works of improvement for flood prevention and the conservation, development, utilization, and disposal of water needed within the district, and to publish the results of those surveys, investigations, or research, provided that no district shall initiate any research program except in cooperation or after consultation with the Ohio agricultural research and development center;

(B) To develop plans for the conservation of soil resources, for the control and prevention of soil erosion, and for works of improvement for flood prevention and the conservation, development, utilization, and disposal of water within the district, and to publish those plans and information;

(C) To implement, construct, repair, maintain, and operate preventive and control measures and other works of improvement for natural resource conservation and development and flood prevention, and the conservation, development, utilization, and disposal of water within the district on lands owned or controlled by this state or any of its agencies and on any other lands within the district, which works may include any facilities authorized under state or federal programs, and to

acquire, by purchase or gift, to hold, encumber, or dispose of, and to lease real and personal property or interests in such property for those purposes;

(D) To cooperate or enter into agreements with any occupier of lands within the district in the carrying on of natural resource conservation operations and works of improvement for flood prevention and the conservation, development, utilization, and management of natural resources within the district, subject to such conditions as the supervisors consider necessary;

(E) To accept donations, gifts, grants, and contributions in money, service, materials, or otherwise, and to use or expend them according to their terms;

(F) To adopt, amend, and rescind rules to carry into effect the purposes and powers of the district;

(G) To sue and plead in the name of the district, and be sued and impleaded in the name of the district, with respect to its contracts and, as indicated in section 1515.081 of the Revised Code, certain torts of its officers, employees, or agents acting within the scope of their employment or official responsibilities, or with respect to the enforcement of its obligations and covenants made under this chapter;

(H) To make and enter into all contracts, leases, and agreements and execute all instruments necessary or incidental to the performance of the duties and the execution of the powers of the district under this chapter, provided that all of the following apply:

(1) Except as provided in section 307.86 of the Revised Code regarding expenditures by boards of county commissioners, when the cost under any such contract, lease, or agreement, other than compensation for personal services or rental of office space, involves an expenditure of more than the amount established in that section regarding expenditures by boards of county commissioners, the supervisors shall make a written contract with the lowest and best bidder after advertisement, for not less than two nor more than four consecutive weeks preceding the day of the opening of bids, in a newspaper of general circulation within the district or as provided in section 7.16 of the Revised Code and in such other publications as the supervisors determine. The notice shall state the general character of the work and materials to be furnished, the place where plans and specifications may be examined, and the time and place of receiving bids.

(2) Each bid for a contract shall contain the full name of every person interested in it.

(3) Each bid for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement shall meet the requirements of section 153.54 of the Revised Code.

(4) Each bid for a contract, other than a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, at the discretion of the supervisors, may be accompanied by a bond or certified check on a solvent bank in an amount not to exceed five per cent of the bid, conditioned that, if the bid is accepted, a contract shall be entered into.

(5) The supervisors may reject any and all bids.

(I) To make agreements with the department of natural resources giving it control over lands of the district for the purpose of construction of improvements by the department under section 1501.011 of the Revised Code;

(J) To charge, alter, and collect rentals and other charges for the use or services of any works of the district;

(K) To enter, either in person or by designated representatives, upon lands, private or public,

in the necessary discharge of their duties;

(L) To enter into agreements or contracts with the department for the determination, implementation, inspection, and funding of agricultural pollution abatement and urban sediment pollution abatement measures whereby landowners, operators, managers, and developers may meet adopted state standards for a quality environment, except that failure of a district board of supervisors to negotiate an agreement or contract with the department shall authorize the division of soil and water resources to implement the required program;

(M) To conduct demonstrations and provide information to the public regarding practices and methods for natural resource conservation, development, and utilization;

(N) To enter into contracts or agreements with the chief of the division of soil and water resources to implement and administer a program for urban sediment pollution abatement and to receive and expend moneys provided by the chief for that purpose;

(O) To develop operation and management plans as necessary;

(P) To determine whether operation and management plans developed under division (A) of section 1511.021 of the Revised Code comply with the standards established under division (E)(1) of section 1511.02 of the Revised Code and to approve or disapprove the plans, based on such compliance. If an operation and management plan is disapproved, the board shall provide a written explanation to the person who submitted the plan. The person may appeal the plan disapproval to the chief, who shall afford the person a hearing. Following the hearing, the chief shall uphold the plan disapproval or reverse it. If the chief reverses the plan disapproval, the plan shall be deemed approved under this division. In the event that any person operating or owning agricultural land or an animal feeding operation in accordance with an approved operation and management plan who, in good faith, is following that plan, causes agricultural pollution, the plan shall be revised in a fashion necessary to mitigate the agricultural pollution, as determined and approved by the board of supervisors of the soil and water conservation district.

(Q) With regard to composting conducted in conjunction with agricultural operations, to do all of the following:

(1) Upon request or upon their own initiative, inspect composting at any such operation to determine whether the composting is being conducted in accordance with section 1511.022 of the Revised Code;

(2) If the board determines that composting is not being so conducted, request the chief to issue an order under division (G) of section 1511.02 of the Revised Code requiring the person who is conducting the composting to prepare a composting plan in accordance with rules adopted under division (E)(8)(c) of that section and to operate in accordance with that plan or to operate in accordance with a previously prepared plan, as applicable;

(3) In accordance with rules adopted under division (E)(8)(c) of section 1511.02 of the Revised Code, review and approve or disapprove any such composting plan. If a plan is disapproved, the board shall provide a written explanation to the person who submitted the plan.

As used in division (Q) of this section, "composting" has the same meaning as in section 1511.01 of the Revised Code.

(R) With regard to conservation activities that are conducted in conjunction with agricultural operations, to assist the county auditor, upon request, in determining whether a conservation activity

is a conservation practice for purposes of Chapter 929. or sections 5713.30 to 5713.37 and 5715.01 of the Revised Code.

As used in this division, "conservation practice" has the same meaning as in section 5713.30 of the Revised Code.

(S) To develop and approve or disapprove voluntary nutrient management plans in accordance with section 905.323 of the Revised Code;

(T) To do all acts necessary or proper to carry out the powers granted in this chapter.

The director of natural resources shall make recommendations to reduce the adverse environmental effects of each project that a soil and water conservation district plans to undertake under division (A), (B), (C), or (D) of this section and that will be funded in whole or in part by moneys authorized under section 1515.16 of the Revised Code and shall disapprove any such project that the director finds will adversely affect the environment without equal or greater benefit to the public. The director's disapproval or recommendations, upon the request of the district filed in accordance with rules adopted by the Ohio soil and water conservation commission, shall be reviewed by the commission, which may confirm the director's decision, modify it, or add recommendations to or approve a project the director has disapproved.

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

**Sec. ~~1515.081~~ 940.07.** (A) As used in this section:

(1) "Judgment" includes a consent judgment.

(2) "Tort action" means a civil action for damages for injury, death, or loss to person or property, other than a civil action for damages for a breach of contract or another agreement between persons.

(B) Except as provided in divisions (C) and (D) of this section, the provisions of Chapter 2744. of the Revised Code apply to soil and water conservation districts as political subdivisions of the state and to their supervisors and other officers, employees, and agents as employees of political subdivisions of the state.

(C)(1) The attorney general, an assistant attorney general, or special counsel appointed by the attorney general shall defend a soil and water conservation district in any tort action that is commenced against the district as a political subdivision of the state under or pursuant to Chapter 2744. of the Revised Code, if a written request for the legal representation is submitted to the attorney general by the soil and water conservation commission. If a request is so submitted, the prosecuting attorney of the county associated with the district does not have legal representation duties in connection with the tort action under section 1515.11 of the Revised Code.

(2) The attorney general, an assistant attorney general, or special counsel appointed by the attorney general shall defend a supervisor or other officer, employee, or agent of a soil and water conservation district in any tort action that is commenced against that person and based upon an action or omission allegedly associated with ~~his~~ that person's employment or official responsibilities for the district, if both of the following apply:

(a) At the time of the action or omission, the person was not acting manifestly outside the scope of ~~his~~ the person's employment or official responsibilities for the district or acting with



malicious purpose, in bad faith, or in a wanton or reckless manner;

(b) A written request for the legal representation is submitted to the attorney general by the soil and water conservation commission.

(3) If a request for legal representation is submitted to the attorney general pursuant to division (C)(2) of this section, divisions (A)(1) and (C) of section 2744.07 of the Revised Code do not apply to the soil and water conservation district and the defense of its supervisor or other officer, employee, or agent.

(D)(1) The state shall indemnify and hold harmless a soil and water conservation district as follows:

(a) In the amount of any judgment that is rendered against the district in a tort action that is commenced under or pursuant to Chapter 2744. of the Revised Code;

(b) In the amount of any settlement of a tort action against the district as described in division (D)(1)(a) of this section, or of a claim for damages for injury, death, or loss to person or property that could become a basis of a tort action against the district as described in division (D)(1)(a) of this section.

(2) The state shall indemnify and hold harmless a supervisor or other officer, employee, or agent of a soil and water conservation district as follows:

(a) Subject to the limitations specified in division (D)(3) of this section, in the amount of any judgment that is rendered against that person in a tort action based upon an action or omission allegedly associated with ~~his~~ the person's employment or official responsibilities for the district;

(b) Subject to the limitations specified in division (D)(3) of this section, in the amount of any settlement of a tort action as described in division (D)(2)(a) of this section or of any settlement of a claim for damages for injury, death, or loss to person or property that could become a basis of a tort action as described in division (D)(2)(a) of this section.

(3)(a) The maximum aggregate amount of indemnification paid directly from state funds to or on behalf of any supervisor or other officer, employee, or agent of a soil and water conservation district pursuant to divisions (D)(2)(a) and (b) of this section shall be one million dollars per occurrence, regardless of the number of persons who suffer injury, death, or loss to person or property as a result of the action or omission of that person.

(b) An indemnification may be made pursuant to division (D)(2)(a) or (b) of this section only if, at the time of the action or omission, the supervisor or other officer, employee, or agent of a soil and water conservation district was not acting manifestly outside the scope of ~~his~~ the supervisor's or other officer's, employee's, or agent's employment or official responsibilities for the district or acting with malicious purpose, in bad faith, or in a wanton or reckless manner.

(c) An indemnification shall not be made pursuant to division (D)(2)(a) or (b) of this section for any portion of a consent judgment or settlement that is unreasonable or for any portion of a judgment that represents punitive or exemplary damages.

(4) Division (A)(2) of section 2744.07 of the Revised Code does not apply to a soil and water conservation district, or to any of its supervisors or other officers, employees, or agents, to the extent that division (D) of this section requires the state to indemnify and hold harmless a supervisor or other officer, employee, or agent of that district.

**Sec. ~~4515.09~~ 940.08.** The supervisors of a soil and water conservation district may employ

assistants and such other employees as they consider necessary and may provide for the payment of the reasonable compensation of such assistants and employees and expenses incurred by them in the discharge of their duties from the special fund established for the district pursuant to section 1515.10 of the Revised Code.

District employees are entitled to the sick leave benefits that are provided in section 124.38 of the Revised Code and the vacation leave benefits that are provided in section 325.19 of the Revised Code and are entitled to participate in the sick leave donation program established under section 1515.091 of the Revised Code.

The supervisors may designate the amounts and forms of other benefits, including insurance protection, to be provided to employees and may make payments of benefits from the district fund that is created with moneys accepted by the supervisors in accordance with division (E) of section 1515.08 of the Revised Code or from the special fund created pursuant to section 1515.10 of the Revised Code. The board of county commissioners may make payments of benefits that are provided under this section.

The supervisors may purchase such materials, equipment, and supplies, may lease such equipment, and may rent, purchase, or construct, and maintain, such offices, and provide for such equipment and supplies therefor, as they consider necessary and may pay for the same from the special fund established for the district pursuant to section 1515.10 of the Revised Code.

**Sec. ~~1515.091~~ 940.09.** (A) As used in this section:

(1) "Receiving employee" means an employee of a soil and water conservation district who receives donated sick leave as authorized by this section.

(2) "Donating employee" means an employee of a soil and water conservation district who donates sick leave as authorized by this section.

(3) "Paid leave" has the same meaning as in section 124.391 of the Revised Code.

(4) "Full-time employee" means an employee of a soil and water conservation district whose regular hours of service for the district total forty hours per week or who renders any other standard of service accepted as full-time by the district.

(5) "Full-time limited hours employee" means an employee of a soil and water conservation district whose regular hours of service for the district total twenty-five to thirty-nine hours per week or who renders any other standard of service accepted as full-time limited hours by the district.

(B)(1) An employee of a soil and water conservation district is eligible to become a receiving employee if the employee is a full-time employee, or a full-time limited hours employee, who has completed the prescribed probationary period, has used up all accrued paid leave, and has been placed on an approved, unpaid, medical-related leave of absence for a period of at least thirty consecutive working days because of the employee's own serious illness or because of a serious illness of a member of the employee's immediate family.

(2) An employee who desires to become a receiving employee shall submit to the board of supervisors of the employing soil and water conservation district, along with a satisfactory physician's certification, a written request for donated sick leave. The board of supervisors shall determine whether the employee is eligible to become a receiving employee and shall approve the request if it determines the employee is eligible.

(C)(1) A board of supervisors that approves a request for an employee to become a receiving

employee shall forward the approved application to a committee that the Ohio association of soil and water conservation district employees shall appoint to act as a clearinghouse for the donation of sick leave under this section. The committee shall post notice for not less than ten days informing all employees of soil and water conservation districts throughout the state that it has received an approved application to become a receiving employee.

(2) A soil and water conservation district employee desiring to become a donating employee shall complete and submit a sick leave donation form to the employee's immediate supervisor within twenty days after the date of the initial posting of the notice described in division (C)(1) of this section. If the board of supervisors of the employing district of an employee desiring to become a donating employee approves the sick leave donation, the board shall forward to the committee, together with a check equal to the total value of the sick leave donation, a copy of the sick leave donation form, and the board shall notify the receiving employee regarding the donation.

(D) If the committee described in division (C)(1) of this section receives a sick leave donation form and a check from a board of supervisors, the committee shall deposit the check into an account that it shall establish to be used to dispense funds to the employing district of a receiving employee. The committee shall notify the board of supervisors of the employing district of a receiving employee of the amount of sick leave donated. The board of supervisors shall bill the committee during each pay period for the receiving employee's gross hourly wages in an amount that does not exceed the amount donated to the receiving employee. The board of supervisors, with the approval of the county auditor, shall provide for the deposit into its appropriate payroll account of any payments it receives for the benefit of a receiving employee.

(E) The donation and receipt of sick leave under this section is subject to all of the following:

(1) All donations of sick leave shall be voluntary.

(2) A donating employee is eligible to donate not less than eight hours and not more than eighty hours of sick leave during the same calendar year.

(3) The value of an hour of sick leave donated is the value of the donating employee's gross hourly wage. The number of hours received by a receiving employee from a donating employee shall be a number that, when multiplied by the receiving employee's gross hourly wage, equals the amount resulting when the donating employee's gross hourly wage is multiplied by the number of hours of sick leave donated.

(4) No paid leave shall accrue to a receiving employee for any compensation received through donated sick leave, and the receipt of donated sick leave does not affect the date on which a receiving employee first qualifies for continuation of health insurance coverage.

(5) If a receiving employee does not use all donated sick leave during the period of the employee's leave of absence, the unused balance shall remain in the account that the committee described in division (C)(1) of this section established under division (D) of this section and shall be used to dispense funds in the future to the employing district of a receiving employee.

**Sec. ~~4515-092~~ 940.10.** (A) When the supervisors of a soil and water conservation district find, by resolution, that the district has personal property, including motor vehicles acquired for the use of district officers, road machinery, equipment, tools, or supplies, which is not needed for public use, or is obsolete or unfit for the use for which it was acquired, the supervisors may sell such property at public auction or by sealed bid to the highest bidder, after giving at least ten days' notice

of the time, place, and manner of sale by posting a typewritten or printed notice in the office of the board of county commissioners. In case the fair market value of the property to be sold pursuant to this division is, in the opinion of the supervisors, in excess of two thousand dollars, notice of the time, place, and manner of the sale shall also be published in a newspaper of general circulation in the district at least ten days prior to such sale. The supervisors may authorize the sale of such personal property without advertisement or public notification and competitive bidding to the federal government, state, or any political subdivision of the state.

If the supervisors conduct a sale of personal property by sealed bid, the form of the bid shall be as prescribed by the supervisors, and each bid shall contain the name of the person submitting it. Bids received shall be opened and tabulated at the time stated in the notice. The property shall be sold to the highest bidder, except that the supervisors may reject all bids and hold another sale, by public auction or sealed bid, in the manner prescribed by this section.

(B) Where the supervisors find, by resolution, that the district has vehicles, equipment, or machinery which is not needed, or is unfit for public use, and the supervisors desire to sell such vehicles, equipment, or machinery to the person or firm from which they propose to purchase other vehicles, equipment, or machinery, the supervisors may offer to sell the vehicles, equipment, or machinery to such person or firm, and to have such selling price credited to the person or firm against the purchase price of other vehicles, equipment, or machinery.

(C) Where the supervisors advertise for bids for the sale of new vehicles, equipment, or machinery to the district, they may include in the same advertisement a notice of their willingness to accept bids for the purchase of district-owned vehicles, equipment, or machinery which is obsolete or not needed for public use, and to have the amount of such bids subtracted from the selling price of the other vehicles, equipment, or machinery as a means of determining the lowest responsible bidder.

**Sec. ~~1515.093~~ 940.11.** The supervisors of a soil and water conservation district may hold one or more credit cards on behalf of the district and may authorize any supervisor or employee of the district to use such a credit card to pay for expenses related to the purposes of the district. The supervisors shall pay the debt incurred as a result of the use of such a credit card from money accepted by the supervisors as authorized under division (E) of section 1515.08 of the Revised Code or from the special fund established for the district under section 1515.10 of the Revised Code.

The misuse of a credit card held on behalf of a soil and water conservation district is a violation of section 2913.21 of the Revised Code. In addition, a supervisor or employee of a district who makes unauthorized use of such a credit card may be held personally liable to the district for the unauthorized use. This section does not limit any other liability of a supervisor or employee of a district for the unauthorized use of such a credit card.

A supervisor or employee of a soil and water conservation district who is authorized to use a credit card that is held on behalf of the district and who suspects the loss, theft, or possibility of another person's unauthorized use of the credit card immediately shall notify the supervisors in writing of the suspected loss, theft, or possible unauthorized use.

**Sec. ~~1515.10~~ 940.12.** The board of county commissioners of each county in which there is a soil and water conservation district may levy a tax within the ten-mill limitation and may appropriate money from the proceeds of the levy or from the general fund of the county. The money shall be held in a special fund for the credit of the district, to be expended for the purposes prescribed in sections

1515.09 and 1515.093 of the Revised Code, for construction and maintenance of improvements by the district, and for other expenses incurred in carrying out the program of the district upon the written order of the fiscal agent for the district after authorization by a majority of the supervisors of the district.

**Sec. ~~1515.11~~ 940.13.** The prosecuting attorney of a county in which there is a soil and water conservation district shall be the legal adviser of the district. The prosecuting attorney shall be the legal counsel of such district in all civil actions brought by or against it and shall conduct all such actions in ~~his~~ the prosecuting attorney's official capacity. The supervisors of a district may also employ such attorneys as may be necessary or desirable in the operations of the district.

**Sec. ~~1515.13~~ 940.14.** Sections 1515.01 to 1515.29 of the Revised Code do not infringe upon the rights, powers, and authority vested by law in the division of wildlife.

**Sec. ~~1515.14~~ 940.15.** Within the limits of funds appropriated to the department of natural resources and the soil and water conservation district assistance fund created in this section, there shall be paid in each calendar year to each local soil and water conservation district an amount not to exceed one dollar for each one dollar received in accordance with section 1515.10 of the Revised Code, received from tax levies in excess of the ten-mill levy limitation approved for the benefit of local soil and water conservation districts, or received from an appropriation by a municipal corporation or a township to a maximum of eight thousand dollars, provided that the Ohio soil and water conservation commission may approve payment to a district in an amount in excess of eight thousand dollars in any calendar year upon receipt of a request and justification from the district. The county auditor shall credit such payments to the special fund established pursuant to section 1515.10 of the Revised Code for the local soil and water conservation district. The department may make advances at least quarterly to each district on the basis of the estimated contribution of the state to each district. Moneys received by each district shall be expended for the purposes of the district.

For the purpose of providing money to soil and water conservation districts under this section, there is hereby created in the state treasury the soil and water conservation district assistance fund consisting of money credited to it under sections 3714.073 and 3734.901 and division (A)(4) of section 3734.57 of the Revised Code.

**Sec. ~~1515.15~~ 940.16.** A board of county commissioners may apply to the Ohio soil and water conservation commission for an advance of moneys from the soil and water conservation fund, which is hereby created in the state treasury, to enable a soil and water conservation district to pay all or part of the cost of surveys and plans, appraisals, estimates of cost, land options, and other incidental expenses of constructing works of improvement for the district. The commission shall consider the application and shall recommend an amount of moneys reasonably needed for that purpose.

The order of the commission recommending the amount of the moneys needed shall be certified to the controlling board. The controlling board shall then determine the amount to be advanced to the county and shall certify its action to the director of budget and management for payment.

All such amounts received by any such district shall be repaid by the board of county commissioners to the state immediately upon the receipt by the board of funds from the sale of bonds or from other sources that may be used for that purpose, or in such number of equal annual installments, not exceeding five, and commencing at such time, as shall be specified in the order of

the commission.

If an unfavorable referendum or court decision has denied the work of improvement, the controlling board, upon receipt of sufficient and satisfactory evidence that the board and district have proceeded in good faith and the recommendation of the commission, shall relieve the board or district of its repayment obligation.

**Sec. ~~1515.16~~ 940.17.** The director of natural resources, upon recommendation by the Ohio soil and water conservation commission, may enter into agreements with boards of county commissioners under which the state shares the cost of construction of works of improvement constructed by the county for a soil and water conservation district. The state share shall be paid from moneys appropriated for such purposes. The state share authorized under this section shall not exceed fifty per cent of the nonfederal cost of the project.

**Sec. ~~1515.17~~ 940.18.** The supervisors of any two or more adjoining soil and water conservation districts may, with approval of the Ohio soil and water conservation commission, form a joint board of supervisors for the purpose of construction, maintenance, and operation of a work of improvement located or to be located in such districts. Each district shall have the same number of supervisors on the joint board, except that where the members on the joint board would otherwise be an even number, an additional supervisor shall be designated from the district in which it appears that the highest amount of taxes or assessment for benefits for the improvement is to be made.

A joint board may exercise the powers given the supervisors of a soil and water conservation district under Chapter 1515. of the Revised Code in connection with the work of improvement for which it was formed.

**Sec. ~~1515.18~~ 940.19.** An owner of land that is located in a soil and water conservation district may file a petition with the supervisors of the district requesting the construction of a conservation works of improvement. Upon the receipt of such a petition, the supervisors shall make a preliminary determination to accept or reject the petition.

A petition may be rejected if the supervisors determine that the information that it contains about the proposed improvement is insufficient to enable the supervisors to proceed with the petition under this chapter or if the petition appears to be frivolous. The supervisors also may reject a petition on the grounds that the district lacks sufficient staff or other resources to proceed with the improvement in accordance with this chapter. If the supervisors reject a petition, they shall notify the petitioner of the reasons for the rejection. A petition that was rejected due to insufficient information may be supplemented with additional information and filed again.

If the supervisors accept a petition for a proposed improvement, they shall establish a date and time for a view of the proposed improvement, which date shall be not fewer than twenty-five nor more than ninety days after the date on which the petition was filed. The supervisors shall designate a convenient place near the proposed improvement at which the view shall start.

Upon receipt of a petition, the supervisors also shall establish a date and time on and at which and designate a location at which they will hold a hearing on the proposed improvement. The hearing shall occur not later than ninety days after the date established for the view.

**Sec. ~~1515.18~~ 940.20.** As soon as the supervisors of a soil and water conservation district have established the dates, times, and locations of the view and the hearing concerning a proposed improvement, they shall send, at least twenty days prior to the date established for the view, a written

notice of the view and the hearing to the landowners within the area to be benefited by the proposed improvement and to the board of county commissioners and the county engineer. The supervisors shall notify all landowners that are adjacent to the proposed improvement by certified mail and shall notify all others by certified mail or first class mailings. Any such written notice shall have the words "Legal Notice" printed in plain view on the face of the envelope. In addition, the supervisors shall invite to the view and the hearing the staff of the soil and water conservation district and the staff of the natural resources conservation service in the United States department of agriculture that is involved with the district together with any other people that the supervisors consider to be necessary to the proceedings.

**Sec. ~~1515.182~~ 940.21.** On the date established for the view of a proposed improvement, the supervisors of a soil and water conservation district shall meet at the designated location near the proposed improvement at the established time. At that time, they shall hear proof of the need for the proposed improvement offered by any landowner that is affected by it.

The supervisors shall view the area in which the proposed improvement is to be constructed. If the proposed improvement is a ditch, the view shall include the line of the proposed ditch and each branch, lateral, or spur of the ditch that is mentioned in the petition. If the area to be viewed is extensive, the supervisors may conduct the view on more than one day and may adjourn from day to day, or a longer period, until the view is completed.

**Sec. ~~1515.183~~ 940.22.** Upon acceptance of a petition requesting the construction of an improvement, the supervisors of a soil and water conservation district shall begin to prepare, as a guide to the board of county commissioners and the petitioners, a preliminary report regarding the proposed improvement. The supervisors shall present the completed preliminary report at the hearing that is held on the proposed improvement.

The preliminary report shall include a preliminary estimate of cost, comments on the feasibility of the project, and a statement of the supervisors' opinion as to whether the benefits from the project are likely to exceed the estimated cost. The preliminary report shall identify all factors that are apparent to the supervisors, both favorable and unfavorable to the proposed improvement, so that the petitioners may be informed concerning what is involved with the construction of the improvement.

In addition to reporting on the improvement as petitioned, the supervisors may submit alternate proposals to accomplish the intent of the petition. The preliminary report and all alternate proposals shall be reviewed and receive concurrence from an engineer who is employed by the division of soil and water resources or by the natural resources conservation service in the United States department of agriculture and who is responsible for providing technical assistance to the district or from any other registered professional engineer whom the supervisors choose.

**Sec. ~~1515.184~~ 940.23.** On the date and at the time established for the hearing on a petition for a proposed improvement, the supervisors of a soil and water conservation district shall conduct the hearing. Prior to the hearing, landowners affected by the proposed improvement may file objections to it with the supervisors, and at the hearing the supervisors shall hear any objections so filed. In addition, the supervisors shall present their preliminary report on the proposed improvement and shall hear any evidence offered by any landowner for or against construction of the proposed improvement. If necessary, the hearing may occur on more than one day and may be adjourned from

day to day or for a longer time that may be reasonable so that all interested landowners may have an opportunity to be heard in favor of or in opposition to the proposed improvement.

**Sec. ~~1515.185~~ 940.24.** If modifications or alternatives to a proposed improvement are proposed or discussed at the hearing on the improvement, the supervisors of the soil and water conservation district may adjourn the hearing for a period of time that is necessary to conduct a subsequent view of the proposed improvement in light of the proposed changes. If it appears that a subsequent view is necessary, the supervisors shall establish a date, time, and location for it and shall notify, in the same manner, the same persons that were required to be notified of the first view.

**Sec. ~~1515.19~~ 940.25.** At the conclusion of the hearing on a proposed improvement, the supervisors of a soil and water conservation district may approve the petition for the improvement if they are reasonably certain that the cost of the proposed improvement will be less than the benefits from it and if they find that the improvement is necessary, that it will be conducive to the public welfare, that it will improve water management and development in the county in which the district is located to the advantage of lands located in it, and that it will aid lands in the area by promoting the economical, industrial, environmental, or social development of the area.

Upon approval of the petition, the supervisors shall establish a date by which the supervisors must complete, in accordance with sections 1515.191 to 1515.193 of the Revised Code, plans and specifications for the improvement together with estimates of damages from and costs for it. The date established shall allow as much time as is necessary for the preparation of the plans, specifications, and estimates. The supervisors may extend the completion date if necessary. Upon completion of the plans, specifications, and estimates, the supervisors shall do both of the following:

(A) Determine the area that would be benefited by the proposed improvement and certify the determination together with the supervisors' approval of the improvement to the board of county commissioners of each county containing land included in the benefited area;

(B) Submit the plans, specifications, and estimates together with the preliminary report to each such board.

**Sec. ~~1515.191~~ 940.26.** Upon approval by the supervisors of a soil and water conservation district of a petition for a proposed improvement, the supervisors or their designee shall conduct all necessary surveys for the proposed improvement. In addition, the supervisors or their designee shall prepare plans for constructing the improvement and shall prepare maps showing the location of the land that is proposed to be assessed in accordance with section 1515.24 of the Revised Code for the improvement.

The supervisors or their designee shall prepare specifications for construction of the improvement and shall specify dimensions of any temporary easement that is necessary for construction purposes. In addition, the supervisors or their designee shall make estimates of the cost of material and any excavation costs. The construction of the improvement may be divided into construction areas if that would be expedient.

In the case of an improvement that is a ditch or similar structure for the disposal of water, the specifications for its construction that the supervisors or their designee must prepare shall provide for spreading and leveling of spoil banks and shall provide for erosion and sediment control through the establishment of a sod or seeded strip not fewer than four feet nor more than fifteen feet wide, measured at right angles to the top of the ditch bank on both sides of the ditch, except where suitable



vegetative cover exists. The strip or other such controls shall be considered to be part of the permanent improvement. Sod or seeded strips that are established and maintained in excess of four feet shall be compensated for by their removal from the taxable valuation of the property of which they are a part.

The supervisors or their designee shall make note of all fences, floodgates, culverts, bridges, and other structures that will be removed or adjusted in constructing the improvement. The supervisors or their designee also shall make note of any gates that need to be installed in existing fences in order to provide access to the improvement for maintenance purposes. The gates shall be locked when requested by the owner of the fence and shall be considered to be a part of the original improvement and subject to maintenance along with the improvement.

The supervisors shall submit the plans, specifications, and other information prepared in accordance with this section to the board of county commissioners of each county in which the proposed improvement is to be located.

**Sec. ~~1515.192~~ 940.27.** The supervisors of a soil and water conservation district or their designee shall estimate the value of land or other property that must be taken and the damages to be sustained by any owner as a result of the construction and subsequent maintenance of a proposed improvement. The supervisors or their designee shall prepare a schedule of damages consisting of the name and address of each owner that is alleged to be damaged, the amount of the estimated damages, and an explanation of the injury upon which the estimate is based. The supervisors' or their designee's schedule of damages also shall contain the value of the land or other property that is necessary to be taken and a complete description of that land or other property. The supervisors shall include the total of the estimated damages and valuations as part of the estimate of the total cost of constructing the improvement and shall submit the schedule of damages to the board of county commissioners of each county in which the improvement is to be located.

**Sec. ~~1515.193~~ 940.28.** The supervisors of a soil and water conservation district or their designee shall make an estimate of the cost of the construction of a proposed improvement, which shall include actual construction costs, any other expenses incurred in investigations and notifications related to the project, the value of land or other property that must be taken and the damages to be sustained by any owner as a result of the construction and subsequent maintenance of the proposed improvement, the cost of installing any gates in fences or any other structures that are necessary to provide access to the improvement for maintenance purposes, and any other incidental costs. Upon completion of the estimate of cost, the supervisors shall submit it to the board of county commissioners of each county in which the improvement is to be located.

**Sec. ~~1515.21~~ 940.29.** Upon receipt of a certification under section 1515.19 of the Revised Code, the board of county commissioners shall, within sixty days, approve or disapprove construction of the improvement. If a board disapproves construction of the improvement, the supervisors may revise the plan for the improvement and again proceed under section 1515.19 of the Revised Code. If the board of county commissioners of each county containing any of the territory included in the project area approves construction of the improvement, the board, or if there is more than one such county, the joint board formed under section 1515.22 of the Revised Code, has in addition to its other powers, the powers of a soil and water conservation district granted by division (C) of section 1515.08 of the Revised Code.

When considering whether to approve or disapprove construction of an improvement, the board shall consider all of the following factors:

- (A) The cost of location and construction;
- (B) The compensation for land or other property that must be taken;
- (C) The benefits to the public welfare;
- (D) The benefits to land, public corporations, and the state needing the improvement;
- (E) In the case of an improvement involving the drainage of water, the effect on land below the improvement that may be caused by constructing the improvement and the sufficiency or insufficiency of the outlet that receives flow from the improvement;
- (F) Any other proper matter that will assist the board in approving or disapproving construction of the improvement.

When, in the opinion of the board of county commissioners, it is necessary for the board to acquire real property or a right-of-way or other easement for a conservation works of improvement under this chapter, the board may appropriate the real property or right-of-way or other easement in accordance with sections 163.01 to 163.62 of the Revised Code.

If the board approves construction of the improvement, the county engineer shall file with the county recorder a property plat showing the general location of the improvement and a statement describing the dimensions of any permanent easement that is necessary for maintenance of the improvement. In the case of an improvement that is an open ditch, provisions that govern the permanent easement for maintenance of the ditch that are established in section 6137.12 of the Revised Code shall apply.

A board shall follow sections 307.86 to 307.91 of the Revised Code, except that the board may designate the board of supervisors as the contracting agency and it shall follow division (H) of section 1515.08 of the Revised Code, or except that if the improvement is being undertaken through the joint efforts and cooperation of the board of county commissioners or board of supervisors and another state or federal agency, and if the state or federal regulations or procedures are in conflict with those sections with respect to the procedures for the preparing of contracts, the issuing of bids, the making of awards, and generally the administering of the contracts, the board of county commissioners or board of supervisors may adopt the state or federal regulations or procedures in those areas where conflict exists and proceed with the improvement in accordance with the requirements of the state or federal regulations or procedures.

**Sec. ~~1515.211~~ 940.30.** (A) A board of county commissioners that approves construction of a proposed improvement or the board's designee shall prepare a schedule of estimated assessments on property within the area that is to be benefited by the improvement. In preparing the schedule, the board or its designee shall use information concerning the proposed improvement that must be submitted to the board by the supervisors of a soil and water conservation district. The information includes plans for the proposed improvement, including surveys, maps, and specifications, together with schedules of damages, cost estimates, and any related reports that the supervisors or their designee prepared.

The schedule of estimated assessments that must be prepared shall include the name and address of each owner of land believed to be benefited by the proposed improvement together with a description of the land. The names and descriptions shall be obtained from the tax duplicates of the

county. The board or its designee shall enter in the schedule the amount of each estimated assessment, which shall be determined using considerations established in section 1515.24 of the Revised Code. In no case shall an assessment be less than twenty-five dollars for each parcel of land, except in the case of a multi-parcel lot, in which case the board may charge a minimum of twenty-five dollars with respect to all of the parcels comprising the multi-parcel lot. In addition, the board may charge an assessment of less than twenty-five dollars if the board determines that a lower amount is appropriate, provided that the lower amount includes the cost of preparing and mailing the notice required under division (D)(1) of section 1515.24 of the Revised Code. The total of the estimated assessments, including the total estimated assessments allocated to public corporations and the state, shall equal the estimated cost of the proposed improvement. The board shall use the schedule of estimated assessments for purposes of levying final assessments under section 1515.24 of the Revised Code.

(B) As used in this section, "multi-parcel lot" means a site on which a dwelling is located and that comprises two or more contiguous parcels of land.

**Sec. ~~1515.22~~ 940.31.** The boards of county commissioners of all the counties containing any of the territory included in the project area, if all such counties have approved construction of an improvement under section 1515.21 of the Revised Code, are a joint board of county commissioners for the improvement.

A joint board of county commissioners may do all the things that a board of county commissioners may do in connection with the improvement and shall proceed as if it were a board of county commissioners representing a county that included all the territory within the project area.

The joint board may agree to apportion any cost of the improvement, or expenses incurred in connection therewith, not paid by assessments or taxes levied for the improvement, or funds other than county funds, among the participating counties.

The joint board shall elect one of its members president and designate a clerk of one of the boards of county commissioners of the participating counties as clerk of the joint board. A majority of the county commissioners constituting the joint board constitutes a quorum. All decisions of the joint board shall be made by a majority vote of the county commissioners constituting the joint board.

For the purpose of bringing a referendum petition against a soil and water conservation project under section 305.31 of the Revised Code, a resolution adopted by a joint board of county commissioners shall be considered to be a resolution adopted by the board of county commissioners of each county in the project area. The electors of any county in the project area may file a petition for referendum under that section against a resolution adopted by the joint board of county commissioners as if it had been adopted by the board of county commissioners for that county. The referendum shall be conducted only in the county in which the referendum petition was filed. The electors of any county in the project area in which no referendum petition was filed shall not be eligible to vote in the referendum, and the outcome of a referendum shall have effect only in the county in which the referendum was held. Any county in the project area in which a referendum is not held remains subject to the provisions of the resolution adopted by the joint board of county commissioners for the soil and water conservation district.

**Sec. ~~1515.23~~ 940.32.** The county auditor and county treasurer of one of the counties

represented by a joint board of county commissioners under section 1515.22 of the Revised Code, to be designated by the joint board, shall ex officio become the fiscal agents of all the participating counties. Such auditor shall certify to the auditor of the other counties a schedule of any taxes or assessments to be levied for the improvement, and the auditor of such other county shall proceed forthwith to place such tax or assessment upon the duplicates. Taxes or assessments so certified for collection to an auditor of another county is a lien on the land within such county from the date such certificate is received by the auditor of such other county. The treasurer of each county shall proceed to collect the same pursuant to the orders made in the proceedings of the joint board, and such taxes or assessments when collected shall be paid to the treasurer for the joint board. The auditor and treasurer shall receive and account for such funds in the same manner as they would for taxes or assessments collected within their county. The treasurer and auditor with their ~~bondsmen~~ bondspersons are liable on their official bonds for any misappropriation of such funds. All warrants for the payment of costs in connection with the improvement shall be drawn by the auditor designated under this section, on the treasurer of said county, payable out of the fund designated by the joint board to receive moneys for the improvement.

**Sec. 1515.24 940.33.** (A) Following receipt of a certification made by the supervisors of a soil and water conservation district pursuant to section 1515.19 of the Revised Code together with receipt of all plans, specifications, and estimates submitted under that section and upon completion of a schedule of estimated assessments in accordance with section 1515.211 of the Revised Code, the board of county commissioners may adopt a resolution levying upon the property within the project area an assessment at a uniform or varied rate based upon the benefit to the area certified by the supervisors, as necessary to pay the cost of construction of the improvement not otherwise funded and to repay advances made for purposes of the improvement from the fund created by section 1515.15 of the Revised Code. The board of county commissioners shall direct the person or authority preparing assessments to give primary consideration, in determining a parcel's estimated assessments relating to the disposal of water, to the potential increase in productivity that the parcel may experience as a result of the improvement and also to give consideration to the amount of water disposed of, the location of the property relative to the project, the value of the project to the watershed, and benefits. The part of the assessment that is found to benefit state, county, or township roads or highways or municipal streets shall be assessed against the state, county, township, or municipal corporation, respectively, payable from motor vehicle revenues. The part of the assessment that is found to benefit property owned by any public corporation, any political subdivision of the state, or the state shall be assessed against the public corporation, the political subdivision, or the state and shall be paid out of the general funds or motor vehicle revenues of the public corporation, the political subdivision of the state, or the state, except as otherwise provided by law.

(B) The assessment shall be certified to the county auditor and by the county auditor to the county treasurer. The collection of the assessment shall conform in all matters to Chapter 323. of the Revised Code.

(C) Any land owned and managed by the department of natural resources for wildlife, recreation, nature preserve, or forestry purposes is exempt from assessments if the director of natural resources determines that the land derives no benefit from the improvement. In making such a determination, the director shall consider the purposes for which the land is owned and managed and

any relevant articles of dedication or existing management plans for the land. If the director determines that the land derives no benefit from the improvement, the director shall notify the board of county commissioners, within thirty days after receiving the assessment notification required by this section, indicating that the director has determined that the land is to be exempt and explaining the specific reason for making this determination. The board of county commissioners, within thirty days after receiving the director's exemption notification, may appeal the determination to the court of common pleas. If the court of common pleas finds in favor of the board of county commissioners, the department of natural resources shall pay all court costs and legal fees.

(D)(1) The board shall give notice by first class mail to every public and private property owner whose property is subject to assessment, at the tax mailing or other known address of the owner. The notice shall contain a statement of the amount to be assessed against the property of the addressee, a description of the method used to determine the necessity for and the amount of the proposed assessment, a description of any easement on the property that is necessary for purposes of the improvement, and a statement that the addressee may file an objection in writing at the office of the board of county commissioners within thirty days after the mailing of notice. If the residence of any owner cannot be ascertained, or if any mailed notice is returned undelivered, the board shall publish the notice to all such owners in a newspaper of general circulation within the project area, once each week for three weeks or as provided in section 7.16 of the Revised Code. The notice shall include the information contained in the mailed notice, but shall state that the owner may file an objection in writing at the office of the board of county commissioners within thirty days after the last publication of the notice.

(2) Upon receipt of objections as provided in this section, the board shall proceed within thirty days to hold a final hearing on the objections by fixing a date and giving notice by first class mail to the objectors at the address provided in filing the objection. If any mailed notice is returned undelivered, the board shall give due notice to the objectors in a newspaper of general circulation in the project area or as provided in section 7.16 of the Revised Code, stating the time, place, and purpose of the hearing. Upon hearing the objectors, the board may adopt a resolution amending and approving the final schedule of assessments and shall enter it in the journal.

(3) Any owner whose objection is not allowed may appeal within thirty days to the court of common pleas of the county in which the property is located.

(4) The board of county commissioners shall make an order approving the levying of the assessment and shall proceed under section 6131.23 of the Revised Code after one of the following has occurred, as applicable:

(a) Final notice is provided by mail or publication.

(b) The imposition of assessments is upheld in the final disposition of an appeal that is filed pursuant to division (D)(3) of this section.

(c) The resolution levying the assessments is approved in a referendum that is held pursuant to section 305.31 of the Revised Code.

(5) The county treasurer shall deposit the proceeds of the assessment in the fund designated by the board and shall report to the county auditor the amount of money from the assessment that is collected by the treasurer. Moneys shall be expended from the fund for purposes of the improvement.

(E) Any moneys collected in excess of the amount needed for construction of the

improvement and the subsequent first year's maintenance may be maintained in a fund to be used for maintenance of the improvement. In any year subsequent to a year in which an assessment for construction of an improvement levied under this section has been collected, and upon determination by the board of county commissioners that funds are not otherwise available for maintenance or repair of the improvement, the board shall levy on the property within the project area an assessment for maintenance at a uniform percentage of all construction costs based upon the assessment schedule used in determining the construction assessment. The assessment is not subject to the provisions concerning notice and petition contained in this section. An assessment for maintenance shall not be levied in any year in which the unencumbered balance of funds available for maintenance of the improvement exceeds twenty per cent of the cost of construction of the improvement, except that the board may adjust the level of assessment within the twenty per cent limitation, or suspend temporarily the levying of an assessment, for maintenance purposes as maintenance funds are needed.

For the purpose of levying an assessment for maintenance of an improvement, a board may use the procedures established in Chapter 6137. of the Revised Code regarding maintenance of improvements as defined in section 6131.01 of the Revised Code in lieu of using the procedures established under this section.

(F) The board of county commissioners may issue bonds and notes as authorized by section 131.23 or 133.17 of the Revised Code.

**Sec. ~~1515.28~~ 940.34.** A board of county commissioners may declare by resolution that it is necessary to levy a tax upon the property within the project area in order to pay the costs of the improvement not otherwise funded.

Such resolution shall specify the rate which it is necessary to levy, the purpose thereof, and the number of years during which such increase shall be in effect, which levy may include a levy upon the duplicate of the current year.

A copy of the resolution shall be certified to the board of elections for the county not less than ninety days before the general election in any year and said board shall submit the proposal to the electors within the project area at the succeeding November election in accordance with section 5705.25 of the Revised Code. For purposes of that section, the subdivision is the project area.

If the per cent required for approval of a levy as set forth in section 5705.26 of the Revised Code vote in favor thereof, the board of county commissioners may levy a tax within the project area, outside the ten-mill limitation, during the period and for the purpose stated in the resolution, or at any less rate or for any less number of years.

The board may issue bonds and notes in anticipation of the collection of taxes levied under this section, and notes in anticipation of the issuance of bonds.

**Sec. ~~1515.29~~ 940.35.** The board of county commissioners, or, if a joint board of county commissioners has been created under section 1515.22 of the Revised Code, the joint board, shall maintain the works of improvement constructed by the board for a soil and water conservation district. For that purpose, the board or joint board may use procedures and requirements established in sections 6137.08 to 6137.14 of the Revised Code and may contract with or authorize the supervisors or joint board of supervisors of a soil and water conservation district to perform maintenance of such works of improvement.

**Sec. 941.14.** (A) The owner shall burn the body of an animal that has died of, or been destroyed because of, a dangerously infectious or contagious disease, bury it not less than four feet under the surface of the ground, dissolve it by alkaline hydrolysis, remove it in a watertight tank to a rendering establishment, or otherwise dispose of it in accordance with section 939.04 or 953.26 of the Revised Code within twenty-four hours after knowledge thereof or after notice in writing from the department of agriculture.

(B) The owner of premises that contain a dead animal shall burn the body of the animal, bury it not less than four feet beneath the surface of the ground, dissolve it by alkaline hydrolysis, remove it in a watertight tank to a rendering establishment, or otherwise dispose of it in accordance with section 939.04 or 953.26 of the Revised Code within a reasonable time after knowledge thereof or after notice in writing from the department or from the township trustees of the township in which the owner's premises are located.

(C) The director of agriculture may adopt rules in accordance with Chapter 119. of the Revised Code establishing requirements and procedures governing the disposal of the body of an animal that has died of, or been destroyed because of, a disease of concern.

(D) Notwithstanding division (A) or (B) of this section or rules adopted under division (C) of this section, the director, in written notice sent to the owner of a dead animal, may require the owner to employ a specific method of disposition of the body, including burning, burying, rendering, composting, or alkaline hydrolysis, when that method does not conflict with any law or rule governing the disposal of infectious wastes and, in the director's judgment, is necessary for purposes of animal disease control. No person shall fail to employ the method of disposition required under this division.

(E) The director, in written notice sent to the owner of a dead animal, may prohibit the owner from transporting the body of the dead animal on any street or highway if that prohibition does not conflict with any law or rule governing the transportation of infectious wastes and, in the director's judgment, is necessary for purposes of animal disease control. No person shall fail to comply with a prohibition issued under this division.

(F) As used in this section, "infectious wastes" has the same meaning as in section 3734.01 of the Revised Code, and "street" or "highway" has the same meaning as in section 4511.01 of the Revised Code.

**Sec. 953.22.** (A) No person shall engage in the business of disposing of, picking up, rendering, or collecting raw rendering material or transporting the material to a composting facility without a license to do so from the department of agriculture.

(B) This chapter does not apply to any of the following:

(1) A farmer who slaughters the farmer's own animals, raised by the farmer on the farmer's own farm, processes the farmer's own meat therefrom, and disposes of the farmer's raw rendering material only by delivery to a person licensed under section 953.23 of the Revised Code;

(2) A person whose only connection with raw rendering material is curing hides and skins;

(3) A person whose only connection with raw rendering material is operating a pet cemetery;

(4) A person who is conducting composting, as defined in section 939.01 of the Revised Code, in accordance with section 939.04 of the Revised Code;

(5) A person whose only connection with raw rendering material is trapping wild animals in

accordance with a nuisance wild animal permit issued by the chief of the division of wildlife in the department of natural resources under rules adopted pursuant to section 1531.08 of the Revised Code;

(6) A county dog warden or animal control officer who transports raw rendering material only for disposal purposes.

**Sec. 955.12.** Except as provided in section 955.121 of Revised Code, a board of county commissioners shall appoint or employ a county dog warden and deputies in such number, for such periods of time, and at such compensation as the board considers necessary to enforce sections 955.01 to 955.27 and 955.50 to 955.53 of the Revised Code.

The warden and deputies shall give bond in a sum not less than five hundred dollars and not more than two thousand dollars, as set by the board, conditioned for the faithful performance of their duties. The bond or bonds may, in the discretion of the board, be individual or blanket bonds. The bonds shall be filed with the county auditor of their respective counties.

The warden and deputies shall make a record of all dogs owned, kept, and harbored in their respective counties. They shall patrol their respective counties and seize and impound on sight all dogs found running at large and all dogs more than three months of age found not wearing a valid registration tag, except any dog that wears a valid registration tag and is: on the premises of its owner, keeper, or harborer, under the reasonable control of its owner or some other person, hunting with its owner or its handler at a field trial, kept constantly confined in a dog kennel registered under this chapter or one licensed under Chapter 956. of the Revised Code, or acquired by, and confined on the premises of, an institution or organization of the type described in section 955.16 of the Revised Code. A dog that wears a valid registration tag may be seized on the premises of its owner, keeper, or harborer and impounded only in the event of a natural disaster.

If a dog warden has reason to believe that a dog is being treated inhumanely on the premises of its owner, keeper, or harborer, the warden shall apply to the court of common pleas for the county in which the premises are located for an order to enter the premises, and if necessary, seize the dog. If the court finds probable cause to believe that the dog is being treated inhumanely, it shall issue such an order.

The warden and deputies shall also make weekly reports, in writing, to the board in their respective counties of all dogs seized, impounded, redeemed, and destroyed.

The wardens and deputies shall have the same police powers as are conferred upon sheriffs and police officers in the performance of their duties as prescribed by sections 955.01 to 955.27 and 955.50 to 955.53 of the Revised Code. They shall also have power to summon the assistance of bystanders in performing their duties and may serve writs and other legal processes issued by any court in their respective counties with reference to enforcing those sections. County auditors may deputize the wardens or deputies to issue dog licenses as provided in sections 955.01 and 955.14 of the Revised Code.

Whenever any person files an affidavit in a court of competent jurisdiction that there is a dog running at large that is not kept constantly confined either in a dog kennel registered under this chapter or one licensed under Chapter 956. of the Revised Code or on the premises of an institution or organization of the type described in section 955.16 of the Revised Code or that a dog is kept or harbored in the warden's jurisdiction without being registered as required by law, the court shall



immediately order the warden to seize and impound the dog. Thereupon the warden shall immediately seize and impound the dog complained of. The warden shall give immediate notice by certified mail to the owner, keeper, or harbinger of the dog seized and impounded by the warden, if the owner, keeper, or harbinger can be determined from the current year's registration list maintained by the warden and the county auditor of the county where the dog is registered, that the dog has been impounded and that, unless the dog is redeemed within fourteen days of the date of the notice, it may thereafter be sold or destroyed according to law. If the owner, keeper, or harbinger cannot be determined from the current year's registration list maintained by the warden and the county auditor of the county where the dog is registered, the officer shall post a notice in the pound or animal shelter both describing the dog and place where seized and advising the unknown owner that, unless the dog is redeemed within three days, it may thereafter be sold or destroyed according to law.

**Sec. 955.121.** (A)(1) In lieu of appointing a county dog warden and deputies under section 955.12 of the Revised Code, a board of county commissioners may appoint the county sheriff to enforce sections 955.01 to 955.27 and 955.50 to 955.53 of the Revised Code. If a board chooses to appoint the county sheriff as the county dog warden, the board shall enter into a two-year written agreement with the sheriff for that purpose at the first meeting in a calendar year following a general election in which at least one of the members of the board was elected.

(2) The agreement may authorize both of the following:

(a) The sheriff to appoint sheriff's deputies or persons other than peace officers as deputy dog wardens;

(b) The transfer of any benefits accrued by employees who are transferred as a result of the county sheriff's being appointed as the county dog warden.

(B) Any dog warden and deputy dog wardens appointed under this section shall comply with both of the following:

(1) Any training requirements applicable to county dog wardens and deputy dog wardens appointed or employed under section 955.12 of the Revised Code;

(2) The requirements established in that section.

(C) If a county sheriff or a sheriff's deputies are appointed as a dog warden or deputy dog wardens under this section, references in this chapter and in Chapters 953., 956., and 959. of the Revised Code to "dog warden" and "deputy dog warden" shall be deemed to be replaced, respectively, with references to "sheriff" and "deputy sheriff."

**Sec. 955.14.** (A) Notwithstanding section 955.01 of the Revised Code, a board of county commissioners by resolution may increase dog and kennel registration fees in the county. The amount of the fees shall not exceed an amount that the board, in its discretion, estimates is needed to pay all expenses for the administration of this chapter. Such a resolution shall be adopted not earlier than the first day of February and not later than the thirty-first day of August of any year and shall specify the registration period or periods to which the increased fees apply. An increase in fees adopted under this division shall be in the ratio of two dollars for each year of registration for a dog registration fee, twenty dollars for a permanent dog registration fee, and ten dollars for a kennel registration fee.

(B) Notwithstanding section 955.20 of the Revised Code, if dog and kennel registration fees in any county are increased above two dollars for each year of registration and twenty dollars for a

permanent registration for a dog registration fee and ten dollars for a kennel registration fee under authority of division (A) of this section, then on or before the first day of March following each year in which the increased fees are in effect, the county auditor shall draw on the dog and kennel fund a warrant payable to the college of veterinary medicine of the Ohio state university in an amount equal to ten cents for each one-year dog registration, thirty cents for each three-year dog registration, one dollar for each permanent dog registration, and ten cents for each kennel registration fee received during the preceding year. The money received by the college of veterinary medicine of the Ohio state university under this division shall be applied for research and study of the diseases of dogs, particularly those transmittable to humans, and for research of other diseases of dogs that by their nature will provide results applicable to the prevention and treatment of both human and canine illness.

(C) The Ohio state university college of veterinary medicine shall be responsible to report annually to the general assembly the progress of the research and study authorized and funded by division (B) of this section. The report shall briefly describe the research projects undertaken and assess the value of each. The report shall account for funds received pursuant to division (B) of this section and for the funds expended attributable to each research project and for other necessary expenses in conjunction with the research authorized by division (B) of this section. The report shall be filed with the general assembly by the first day of May of each year.

(D) The county auditor may authorize agents to receive applications for registration of dogs and kennels and to issue certificates of registration and tags. If authorized agents are employed in a county, each applicant for a dog or kennel registration shall pay to the agent an administrative fee of seventy-five cents in addition to the registration fee. The administrative fee shall be the compensation of the agent. The county auditor shall establish rules for reporting and accounting by the agents. No administrative or similar fee shall be charged in any county except as authorized by this division or division (E) of this section.

(E) For any county that accepts the payment of dog and kennel registration fees by financial transaction devices in accordance with section 955.013 of the Revised Code, in addition to those registration fees, the county auditor shall collect for each registration paid by a financial transaction device one of the following:

(1) An administrative fee of seventy-five cents or another amount necessary to cover actual costs designated by the county auditor;

(2) If the board of county commissioners adopts a surcharge or convenience fee for making payments by a financial transaction device under division (E) of section 301.28 of the Revised Code, that surcharge or convenience fee;

(3) If the county auditor contracts with a third party to provide services to enable registration via the internet as provided in section 955.013 of the Revised Code, a surcharge or convenience fee as agreed to between that third party and the county for those internet registration services. Any additional expenses incurred by the county auditor that result from a contract with a third party as provided in this section and section 955.013 of the Revised Code and that are not covered by a surcharge or convenience fee shall be paid out of the allowance provided to the county auditor under section 955.20 of the Revised Code.

(F) The county auditor shall post conspicuously the amount of the administrative fee,

surcharge, or convenience fee that is permissible under this section on the web page where the auditor accepts payments for registrations made under division (B)(1) of section 955.013 of the Revised Code. If any person chooses to pay by financial transaction device, the administrative fee, surcharge, or convenience fee shall be considered voluntary and is not refundable.

**Sec. 955.15.** The board of county commissioners shall provide nets and other suitable devices for the taking of dogs in a humane manner, provide a suitable place for impounding dogs, make proper provision for feeding and caring for the same, and provide humane devices and methods for destroying dogs. In any county in which there is a society for the prevention of cruelty to children and animals, having one or more agents and maintaining an animal shelter suitable for a dog pound and devices for humanely destroying dogs, the board need not furnish a dog pound, but the county dog warden shall deliver all dogs seized by the warden and the warden's deputies to such society at its animal shelter, there to be dealt with in accordance with law. The board shall provide for the payment of reasonable compensation to such society for its services so performed out of the dog and kennel fund. The board may designate and appoint any officers regularly employed by any society organized under sections 1717.02 to 1717.05 of the Revised Code, to act as county dog warden or deputies for the purpose of carrying out sections 955.01 to 955.27 of the Revised Code, if such society whose agents are so employed owns or controls a suitable place for keeping and destroying dogs.

**Sec. 955.20.** The registration fees provided for in sections 955.01 to 955.14 of the Revised Code constitute a special fund known as "the dog and kennel fund." The fees shall be deposited by the county auditor in the county treasury daily as collected. Money in the fund shall be used for the purpose of defraying the cost of furnishing all blanks, records, tags, nets, and other equipment, for the purpose of paying the compensation of county dog wardens, deputies, poundkeepers, and other employees necessary to carry out and enforce sections 955.01 to 955.261 of the Revised Code, and in accordance with section 955.27 of the Revised Code. The board of county commissioners, by resolution, shall appropriate sufficient funds out of the dog and kennel fund, not more than fifteen per cent of which shall be expended by the auditor for registration tags, blanks, records, and clerk hire, for the purpose of defraying the necessary expenses of registering, seizing, impounding, and destroying dogs in accordance with sections 955.01 to 955.27 of the Revised Code, and for the purpose of covering any additional expenses incurred by the county auditor as authorized by division (E)(3) of section 955.14 of the Revised Code.

If the funds so appropriated in any calendar year are found by the board to be insufficient to defray the necessary cost and expense of the county dog warden in enforcing sections 955.01 to 955.27 of the Revised Code, the board, by resolution so provided, may appropriate further funds for the use and purpose of the county dog warden in administering those sections.

**Sec. 955.27.** After paying all necessary expenses of administering the sections of the Revised Code relating to the registration, seizing, impounding, and destroying of dogs, including the purchase, construction, and repair of vehicles and facilities necessary for the proper administration of such sections, the board of county commissioners, at the December session, if there remains more than two thousand dollars in the dog and kennel fund for that year in a county in which there is a society for the prevention of cruelty to children and animals, incorporated and organized by law, and having one or more agents appointed pursuant to law, or any other society organized under Chapter

1717. of the Revised Code, that owns or controls a suitable dog kennel or a place for the keeping and destroying of dogs that has one or more agents appointed and employed pursuant to law, may pay to the treasurer of the society, upon warrant of the county auditor, all such excess as the board deems necessary for the uses and purposes of the society.

**Sec. 991.03.** (A) The Ohio expositions commission shall:

- (1) Conduct at least one fair or exposition annually;
- (2) Maintain and manage property held by the state for the purpose of conducting fairs, expositions, and exhibits;
- (3) As provided in section 109.122 of the Revised Code, provide notice of or copies of any proposed entertainment or sponsorship contracts to the attorney general.

(B) The commission may:

- (1) Conduct such additional fairs, expositions, or exhibitions as the commission determines are in the general public interest;
- (2) Accept on behalf of the state conveyances of property for the purposes of conducting fairs, expositions, and exhibits, subject to any terms and conditions agreed to by the commission and approved by the controlling board;
- (3) Accept gifts, devises, and bequests of money, lands, and other property and apply the money, lands, or other property according to the terms of the gift, devise, or bequest. A political subdivision as authorized by law may make gifts and devises to the commission, and the commission shall apply such a gift or devise according to the terms of the gift or devise. All gifts and bequests of money accepted under this division shall be deposited into the state treasury to the credit of the Ohio expositions support fund.
- (4) Enter into contracts that the commission considers necessary or worthwhile in the conduct of its purposes, provided that contracts made for a term exceeding two years, other than those described in division (B)(4) of this section, shall be subject to the approval of the controlling board and provided that the attorney general, pursuant to the attorney general's authority under section 109.122 of the Revised Code, has not disapproved the proposed contract;
- (5) Enter into contracts for the mutual exchange of goods or services;
- (6) Sell or convey all or a portion of the property, land, or buildings under its management subject to the approval of the legislature;
- (7) Grant leases on all or any part of the property, land, or buildings under the management of the commission to private or public organizations, which appear to be in the best interests of the state, with the approval of the controlling board and director of administrative services, subject to the following conditions:
  - (a) The lessees shall make or construct improvements on such lands or buildings at no cost to the commission or to the state, subject to prior approval by the director of administrative services of detailed plans and specifications of such improvements.
  - (b) No person, firm, or corporation shall cause a lien to be filed against any funds or property of the state or of the commission as a result of a lessee's activities pursuant to division (B)(7)(a) of this section.
  - (c) Leases shall be entered into subject to the sale of such property, lands, or buildings during the term of the lease.

(d) No leases shall be made which interfere with a fair, exposition, or exhibition on such lands.

(8) Encumber appropriations for the entire amount of a contract at the time the contract is made, even though the contract will not be performed in the fiscal year for which the appropriations were made.

(9) Implement a credit card payment program permitting payment by means of a credit card of any fees, charges, and rentals associated with conducting fairs, expositions, and exhibits. The commission may open an account outside the state treasury in a financial institution for the purpose of depositing credit card receipts. By the end of the business day following the deposit of the receipts, the financial institution shall make available to the commission funds in the amount of the receipts. The commission shall then pay these funds into the state treasury to the credit of the Ohio expositions fund.

The commission shall adopt rules as necessary to carry out the purposes of division (B)(9) of this section. The rules shall include standards for determining eligible financial institutions and the manner in which funds shall be made available and shall be consistent with the standards contained in sections 135.03, 135.18, 135.181, and 135.182 of the Revised Code.

The commission shall not adopt or enforce any rules which will prohibit livestock exhibited at the Ohio state fair from participating in county and independent fairs in the state.

**Sec. 1306.20.** (A) Subject to section 1306.11 of the Revised Code, each state agency shall determine if, and the extent to which, it will send and receive electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

(B)(1) Subject to division (B)(2) of this section, a state agency may waive a requirement in the Revised Code, other than a requirement in sections 1306.01 to 1306.15 of the Revised Code, that relates to any of the following:

- (a) The method of posting or displaying records;
- (b) The manner of sending, communicating, or transmitting records;
- (c) The manner of formatting records.

(2) A state agency may exercise its authority to waive a requirement under division (B)(1) of this section only if the following apply:

- (a) The requirement relates to a matter over which the state agency has jurisdiction;
- (b) The waiver is consistent with criteria set forth in rules adopted by the state agency. The criteria, to the extent reasonable under the circumstances, shall contain standards to facilitate the use of electronic commerce by persons under the jurisdiction of the state agency consistent with rules adopted by the department of administrative services pursuant to division (A) of section 1306.21 of the Revised Code.

(C) If a state agency creates, uses, receives, or retains electronic records, both of the following apply:

(1) Any rules adopted by a state agency relating to electronic records shall be consistent with rules adopted by the department of administrative services pursuant to division (A) of section 1306.21 of the Revised Code.

(2) Each state agency shall create, use, receive, and retain electronic records in accordance

with section 149.40 of the Revised Code.

(D) If a state agency creates, uses, or receives electronic signatures, the state agency shall create, use, or receive the signatures in accordance with rules adopted by the department of administrative services pursuant to division (A) of section 1306.21 of the Revised Code.

(E) To the extent a state agency retains an electronic record, the state agency may retain a record in a format that is different from the format in which the record was originally created, used, sent, or received only if it can be demonstrated that the alternative format used accurately and completely reflects the record as it was originally created, used, sent, or received.

(F) Whenever any rule of law requires or authorizes the filing of any information, notice, lien, or other document or record with any state agency, a filing made by an electronic record shall have the same force and effect as a filing made on paper in all cases where the state agency has authorized or agreed to such electronic filing and the filing is made in accordance with applicable rules or agreement.

(G) Nothing in sections 1306.01 to 1306.23 of the Revised Code shall be construed to require any state agency to use or permit the use of electronic records and electronic signatures.

(H) For the purposes of this section, "state agency" means every organized body, office, or agency established by the laws of the state for the exercise of any function of state government, but does not include the general assembly, any legislative agency, the supreme court, the other courts of record in this state, any judicial agency, or any state university identified in section 3345.011 of the Revised Code, or the northeast Ohio medical university.

(I) A state university identified in section 3345.011 of the Revised Code, and the northeast Ohio medical university, that uses or permits the use of electronic records or electronic signatures on September 16, 2014, shall, within six months after September 16, 2014, adopt rules in accordance with section 111.15 of the Revised Code to provide for the use or permission to use electronic records or electronic signatures. A state university identified in section 3345.011 of the Revised Code, and the northeast Ohio medical university, if not using or permitting the use of electronic records or electronic signatures on September 16, 2014, shall adopt rules in accordance with section 111.15 of the Revised Code when it elects to begin using or permitting the use of electronic records or electronic signatures.

**Sec. 1309.528.** All fees collected by the secretary of state for filings under Title XIII or XVII of the Revised Code shall be deposited into the state treasury to the credit of the corporate and uniform commercial code filing fund, which is hereby created. The fund shall also receive revenue from fees charged to customers for special database requests. All moneys credited to the fund shall be used for the purpose of paying for the operations of the office of the secretary of state and for the purpose of paying for expenses relating to the processing of filings under Title XIII or XVII of the Revised Code.

**Sec. 1332.25.** (A) An application made to the director of commerce for a video service authorization under section 1332.24 of the Revised Code shall require and contain only the following:

(1) Specification of the location of the applicant's principal place of business and the names of the applicant's principal executive officers;

(2) Specification of the geographic and political boundaries of the applicant's proposed video

service area;

(3) A general description of the type or types of technologies the applicant will use to deliver the video programming, which may include wireline, wireless, or any other alternative technology, subject, as applicable, to section 1332.29 of the Revised Code;

(4) An attestation that the applicant has filed or will timely file with the federal communications commission all forms required by that agency in advance of offering video service in this state;

(5) An attestation that the applicant will comply with applicable federal, state, and local laws;

(6) An attestation that the applicant is legally, financially, and technically qualified to provide video service;

(7) A description of the applicant's customer complaint handling process, including policies on addressing customer service issues, billing adjustments, and communication with government officials regarding customer complaints, and a local or toll-free telephone number at which a customer may contact the applicant.

(B) For the purpose of division (A)(2) of this section:

(1) The video service areas of video service providers may overlap.

(2) A specified video service area shall be coextensive with municipal, township unincorporated area, or county boundaries, except as authorized under division (B)(3) or (4) of this section, but nothing in sections 1332.21 to 1332.34 of the Revised Code shall require a video service provider to provide access to video service within the entire video service area.

(3) The specified video service area of a person using telecommunications facilities to provide video service on September 24, 2007, or of any other person later so using telecommunications facilities shall be the geographic area in which the person offered basic local exchange service on September 24, 2007.

(4) Subject to division (C)(2) of section 1332.27 of the Revised Code, the specified video service area of an applicant cable operator that offers service under a franchise in effect on September 24, 2007, initially shall be, at minimum, the franchise area established under that franchise.

(C) A video service provider shall immediately file an application to amend its video service authorization with the director to reflect any change in the information required under division (A) (1), (2), or (3) of this section. An amendment pursuant to division (A)(2) of this section shall include any new delivery technology information required by division (A)(3) of this section.

(D) Within thirty days after its filing or within thirty days after the filing of supplemental information necessary to make it complete, the director shall determine the completeness of an application filed under division (A) or (C) of this section relative to the respective requirements of divisions (A), (B), and (C) of this section and, as applicable, shall notify the applicant of an incompleteness determination, state the bases for that determination, and inform the applicant that it may resubmit a corrected application. The director shall issue a video service authorization, authorization renewal, or amended authorization within fifteen days after the director's determination that the filed application is complete.

If the director does not notify the applicant regarding the completeness of the application within the time period specified in this division or does not issue the authorization requested by a

completed application within the applicable time period, the application shall be deemed complete, and the authorization or amended authorization deemed issued on the forty-fifth day after the application's filing date.

(E) An applicant shall pay a two thousand dollar nonrefundable fee for each application filed under division (A) of this section and a one hundred dollar nonrefundable fee for each application to amend filed under division (C) of this section. Fees collected under this division shall be deposited to the credit of the video service authorization fund in the state treasury, which is hereby created, to be used by the department of commerce in carrying out its duties under sections 1332.21 to 1332.34 of the Revised Code.

(F)(1) No video service provider shall identify or make reference to an application fee under division (E) of this section on any subscriber bill or in conjunction with charging any fee to the subscriber.

(2) A video service provider may identify or make reference on a subscriber bill to an assessment under section 1332.24 of the Revised Code only if the provider opts to pass the cost of the assessment onto subscribers.

(G) An applicant may identify any information in its application as trade secret information, and if, upon its written request to the director, the director reasonably affirms all or part of that information as trade secret information, the information so affirmed does not constitute a public record for the purpose of section 149.43 of the Revised Code.

**Sec. 1347.08.** (A) Every state or local agency that maintains a personal information system, upon the request and the proper identification of any person who is the subject of personal information in the system, shall:

(1) Inform the person of the existence of any personal information in the system of which the person is the subject;

(2) Except as provided in divisions (C) and (E)(2) of this section, permit the person, the person's legal guardian, or an attorney who presents a signed written authorization made by the person, to inspect all personal information in the system of which the person is the subject;

(3) Inform the person about the types of uses made of the personal information, including the identity of any users usually granted access to the system.

(B) Any person who wishes to exercise a right provided by this section may be accompanied by another individual of the person's choice.

(C)(1) A state or local agency, upon request, shall disclose medical, psychiatric, or psychological information to a person who is the subject of the information or to the person's legal guardian, unless a physician, psychiatrist, or psychologist determines for the agency that the disclosure of the information is likely to have an adverse effect on the person, in which case the information shall be released to a physician, psychiatrist, or psychologist who is designated by the person or by the person's legal guardian.

(2) Upon the signed written request of either a licensed attorney at law or a licensed physician designated by the inmate, together with the signed written request of an inmate of a correctional institution under the administration of the department of rehabilitation and correction, the department shall disclose medical information to the designated attorney or physician as provided in division (C) of section 5120.21 of the Revised Code.



(D) If an individual who is authorized to inspect personal information that is maintained in a personal information system requests the state or local agency that maintains the system to provide a copy of any personal information that the individual is authorized to inspect, the agency shall provide a copy of the personal information to the individual. Each state and local agency may establish reasonable fees for the service of copying, upon request, personal information that is maintained by the agency.

(E)(1) This section regulates access to personal information that is maintained in a personal information system by persons who are the subject of the information, but does not limit the authority of any person, including a person who is the subject of personal information maintained in a personal information system, to inspect or have copied, pursuant to section 149.43 of the Revised Code, a public record as defined in that section.

(2) This section does not provide a person who is the subject of personal information maintained in a personal information system, the person's legal guardian, or an attorney authorized by the person, with a right to inspect or have copied, or require an agency that maintains a personal information system to permit the inspection of or to copy, a confidential law enforcement investigatory record or trial preparation record, as defined in divisions (A)(2) and (4) of section 149.43 of the Revised Code.

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

(1) The contents of an adoption file maintained by the department of health under sections 3705.12 to 3705.124 of the Revised Code;

(2) Information contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;

(3) Papers, records, and books that pertain to an adoption and that are subject to inspection in accordance with section 3107.17 of the Revised Code;

(4) Records specified in division (A) of section 3107.52 of the Revised Code;

(5) Records that identify an individual described in division (A)(1) of section 3721.031 of the Revised Code, or that would tend to identify such an individual;

(6) Files and records that have been expunged under division (D)(1) or (2) of section 3721.23 of the Revised Code;

(7) Records that identify an individual described in division (A)(1) of section 3721.25 of the Revised Code, or that would tend to identify such an individual;

(8) Records that identify an individual described in division (A)(1) of section 5165.88 of the Revised Code, or that would tend to identify such an individual;

(9) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of executives of long-term services and supports administers under section 4751.04 of the Revised Code or contracts under that section with a private or government entity to administer;

(10) Information contained in a database established and maintained pursuant to section 5101.13 of the Revised Code;

(11) Information contained in a database established and maintained pursuant to section

5101.631 of the Revised Code.

**Sec. 1349.04.** (A) As used in this section:

(1) "Active duty" means active duty pursuant to an executive order of the president of the United States, an act of the congress of the United States, or section 5919.29 or 5923.21 of the Revised Code.

(2) "Immediate family" means a person's spouse residing in the person's household; brothers and sisters of the whole or half blood; children, including adopted children and stepchildren; parents; and grandparents.

(B) The attorney general shall appoint a member of the staff of the consumer protection division of the attorney general's office to expedite cases or issues raised by a person, or the immediate family of the person, who is deployed on active duty, which cases or issues raised relate to section 317.322, 1343.031, 1349.02, 1349.03, 1713.60, 1923.062, 3313.64, 3332.20, 3345.53, 3915.053, 4933.12, or 4933.121 of the Revised Code or to any other relevant section of the Revised Code regulating consumer protection.

**Sec. 1501.01.** (A) Except where otherwise expressly provided, the director of natural resources shall formulate and institute all the policies and programs of the department of natural resources. The chief of any division of the department shall not enter into any contract, agreement, or understanding unless it is approved by the director. No appointee or employee of the director, other than the assistant director, may bind the director in a contract except when given general or special authority to do so by the director.

The director may enter into contracts or agreements with any agency of the United States government, any other public agency, or any private entity or organization for the performance of the duties of the department.

(B) The director shall correlate and coordinate the work and activities of the divisions in the department to eliminate unnecessary duplications of effort and overlapping of functions. The chiefs of the various divisions of the department shall meet with the director at least once each month at a time and place designated by the director.

The director may create advisory boards to any of those divisions in conformity with section 121.13 of the Revised Code.

(C) The director may accept and expend gifts, devises, and bequests of money, lands, and other properties on behalf of the department or any division thereof under the terms set forth in section 9.20 of the Revised Code. Any political subdivision of this state may make contributions to the department for the use of the department or any division therein according to the terms of the contribution.

(D) The director may publish and sell or otherwise distribute data, reports, and information.

(E) The director may identify and develop the geographic information system needs for the department, which may include, but not be limited to, all of the following:

(1) Assisting in the training and education of department resource managers, administrators, and other staff in the application and use of geographic information system technology;

(2) Providing technical support to the department in the design, preparation of data, and use of appropriate geographic information system applications in order to help solve resource related problems and to improve the effectiveness and efficiency of department delivered services;

- (3) Creating, maintaining, and documenting spatial digital data bases;
  - (4) Providing information to and otherwise assisting government officials, planners, and resource managers in understanding land use planning and resource management;
  - (5) Providing continuing assistance to local government officials and others in natural resource digital data base development and in applying and utilizing the geographic information system for land use planning, current agricultural use value assessment, development reviews, coastal management, and other resource management activities;
  - (6) Coordinating and administering the remote sensing needs of the department, including the collection and analysis of aerial photography, satellite data, and other data pertaining to land, water, and other resources of the state;
  - (7) Preparing and publishing maps and digital data relating to the state's land use and land cover over time on a local, regional, and statewide basis;
  - (8) Locating and distributing hard copy maps, digital data, aerial photography, and other resource data and information to government agencies and the public;
  - (9) Preparing special studies and executing any other related duties, functions, and responsibilities identified by the director;
  - (10) Entering into contracts or agreements with any agency of the United States government, any other public agency, or any private agency or organization for the performance of the duties specified in division (E) of this section or for accomplishing cooperative projects within those duties;
  - (11) Entering into agreements with local government agencies for the purposes of land use inventories, Ohio capability analysis data layers, and other duties related to resource management.
- (F) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to permit the department to accept by means of a credit card the payment of fees, charges, and rentals at those facilities described in section 1501.07 of the Revised Code that are operated by the department, for any data, reports, or information sold by the department, and for any other goods or services provided by the department.
- (G) Whenever authorized by the governor to do so, the director may appropriate property for the uses and purposes authorized to be performed by the department and on behalf of any division within the department. This authority shall be exercised in the manner provided in sections 163.01 to 163.22 of the Revised Code for the appropriation of property by the director of administrative services. This authority to appropriate property is in addition to the authority provided by law for the appropriation of property by divisions of the department. The director of natural resources also may acquire by purchase, lease, or otherwise such real and personal property rights or privileges in the name of the state as are necessary for the purposes of the department or any division therein. The director, in accordance with section 5301.13 of the Revised Code, if applicable, may sell, lease, or exchange portions of lands or property, real or personal, of any division of the department or grant easements or licenses for the use thereof, or enter into agreements for the sale of water from lands and waters under the administration or care of the department or any of its divisions, when the sale, lease, exchange, easement, agreement, or license for use is in an amount that is less than fifty thousand dollars and is advantageous to the state. With the approval of the governor, the director, in accordance with section 5301.13 of the Revised Code, if applicable, may sell, lease, or exchange portions of, grant easements or licenses for the use of, or enter into agreements for the sale of such

lands, property, or waters in an amount of fifty thousand dollars or more when the sale, lease, exchange, easement, agreement, or license is advantageous to the state. Water may be sold from a reservoir only to the extent that the reservoir was designed to yield a supply of water for a purpose other than recreation or wildlife, and the water sold is in excess of that needed to maintain the reservoir for purposes of recreation or wildlife.

Money received from such sales, leases, easements, exchanges, agreements, or licenses for use, except revenues required to be set aside or paid into depositories or trust funds for the payment of bonds issued under sections 1501.12 to 1501.15 of the Revised Code, and to maintain the required reserves therefor as provided in the orders authorizing the issuance of such bonds or the trust agreements securing such bonds, revenues required to be paid and credited pursuant to the bond proceeding applicable to obligations issued pursuant to section 154.22, and revenues generated under section 1520.05 of the Revised Code, shall be deposited in the state treasury to the credit of the fund of the division of the department having prior jurisdiction over the lands or property. If no such fund exists, the money shall be credited to the general revenue fund. All such money received from lands or properties administered by the division of wildlife shall be credited to the wildlife fund.

(H) The director shall provide for the custody, safekeeping, and deposit of all moneys, checks, and drafts received by the department or its employees prior to paying them to the treasurer of state under section 113.08 of the Revised Code.

(I) The director shall cooperate with the nature conservancy, other nonprofit organizations, and the United States fish and wildlife service in order to secure protection of islands in the Ohio river and the wildlife and wildlife habitat of those islands.

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

**Sec. 1501.011.** (A) Except as provided in divisions (B), (C), and (D) of this section, the Ohio facilities construction commission shall supervise the design and construction of, and make contracts for the construction, reconstruction, improvement, enlargement, alteration, repair, or decoration of, any projects or improvements for the department of natural resources that may be authorized by legislative appropriations or any other funds available therefor, the estimated cost of which amounts to two hundred thousand dollars or more or the amount determined pursuant to section 153.53 of the Revised Code or more.

(B)(1) The department of natural resources shall supervise the design and construction of, and make contracts for the construction, reconstruction, improvement, enlargement, alteration, repair, or decoration of, any of the following activities, projects, or improvements:

(a) Dam repairs administered by the division of engineering under Chapter 1507. of the Revised Code;

(b) Projects or improvements administered by the division of parks and watercraft and funded through the waterways safety fund established in section 1547.75 of the Revised Code;

(c) Projects or improvements administered by the division of wildlife under Chapter 1531. or 1533. of the Revised Code;

(d) Activities conducted by the department pursuant to section 5511.05 of the Revised Code in order to maintain the department's roadway inventory.

(2) If a contract to be let under division (B)(1) of this section involves an exigency that concerns the public health, safety, or welfare or addresses an emergency situation in which timeliness is crucial in preventing the cost of the contract from increasing significantly, pursuant to the declaration of a public exigency, the department may award the contract without competitive bidding or selection as otherwise required by Chapter 153. of the Revised Code.

A notice published by the department of natural resources regarding an activity, project, or improvement shall be published as contemplated in section 7.16 of the Revised Code.

(C) The executive director of the Ohio facilities construction commission may authorize the department of natural resources to administer any other project or improvement, the estimated cost of which, including design fees, construction, equipment, and contingency amounts, is not more than one million five hundred thousand dollars.

**Sec. 1501.022.** There is hereby created in the state treasury the injection well review fund consisting of moneys transferred to it under section 6111.046 of the Revised Code. Moneys in the fund shall be used by the chiefs of the divisions of mineral resources management, oil and gas resources management, geological survey, and soil and water resources in the department of natural resources exclusively for the purpose of executing their duties under sections 6111.043 to 6111.047 of the Revised Code.

**Sec. 1501.04.** There is hereby created in the department of natural resources a recreation and resources commission composed of the chairperson of the wildlife council created under section 1531.03 of the Revised Code, the chairperson of the parks and recreation council created under section 1541.40 of the Revised Code, the chairperson of the waterways safety council created under section 1547.73 of the Revised Code, the chairperson of the technical advisory council on oil and gas created under section 1509.38 of the Revised Code, the chairperson of the forestry advisory council created under section 1503.40 of the Revised Code, the chairperson of the Ohio soil and water conservation commission created under section 1515.02 of the Revised Code, the chairperson of the Ohio natural areas council created under section 1517.03 of the Revised Code, the chairperson of the Ohio water advisory council created under section 1521.031 of the Revised Code, the chairperson of the Ohio geology advisory council created under section 1505.11 of the Revised Code, and five members appointed by the governor with the advice and consent of the senate, not more than three of whom shall belong to the same political party. The director of natural resources shall be an ex officio member of the commission, with a voice in its deliberations, but without the power to vote.

Terms of office of members of the commission appointed by the governor shall be for five years, commencing on the second day of February and ending on the first day of February. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed.

In the event of the death, removal, resignation, or incapacity of a member of the commission, the governor, with the advice and consent of the senate, shall appoint a successor who shall hold office for the remainder of the term for which the member's predecessor was appointed. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

The governor may remove any appointed member of the commission for misfeasance, nonfeasance, or malfeasance in office.

The commission shall exercise no administrative function, but may do any of the following:

(A) Advise with and recommend to the director as to plans and programs for the management, development, utilization, and conservation of the natural resources of the state;

(B) Advise with and recommend to the director as to methods of coordinating the work of the divisions of the department;

(C) Consider and make recommendations upon any matter that the director may submit to it;

(D) Submit to the governor biennially recommendations for amendments to the conservation laws of the state.

Each member of the commission, before entering upon the discharge of the member's duties, shall take and subscribe to an oath of office, which oath, in writing, shall be filed in the office of the secretary of state.

The members of the commission shall serve without compensation, but shall be entitled to receive their actual and necessary expenses incurred in the performance of their official duties.

The commission, by a majority vote of all its members, shall adopt and amend bylaws.

To be eligible for appointment, a person shall be a citizen of the United States and an elector of the state and shall possess a knowledge of and have an interest in the natural resources of this state.

The commission shall hold at least four regular quarterly meetings each year. Special meetings shall be held at such times as the bylaws of the commission provide. Notices of all meetings shall be given in such manner as the bylaws provide. The commission shall choose annually from among its members a chairperson to preside over its meetings and a secretary to keep a record of its proceedings. A majority of the members of the commission constitutes a quorum. No advice shall be given or recommendation made without a majority of the members of the commission concurring in it.

**Sec. 1503.50.**

**Sec. 1503.51.**

**Sec. 1503.52.**

**Sec. 1503.53.**

**Sec. 1503.54.**

**Sec. 1503.55.**

**Sec. 1503.99.** (A) Whoever violates section 1503.01 or 1503.12 of the Revised Code is guilty of a minor misdemeanor.

(B) Whoever violates section 1503.18 or 1503.43 of the Revised Code is guilty of a misdemeanor of the third degree.

(C) Whoever violates division (A) of section 1503.54 of the Revised Code is guilty of a misdemeanor of the first degree. Each day of violation is a separate offense. In addition to the penalty provided in this division, the sentencing court may assess damages in an amount equal to the costs of reclaiming, restoring, or otherwise repairing any damage to public or private property caused by any violation of division (A) of section 1503.54 of the Revised Code. All fines and moneys assessed as damages under this section shall be credited to the forestry pollution abatement fund created in section 1503.55 of the Revised Code.

**Sec. 1505.10.** The director of natural resources or the director's designee shall prepare and

publish for public distribution annual reports that shall include all of the following:

(A) A list of the operators of mines, quarries, pits, or other mineral resource extraction operations in this state;

(B) Information on the location of and commodity extracted at each operation;

(C) Information on the employment at each operation;

(D) Information on the tonnage of coal or other minerals extracted at each operation along with the method of extraction;

(E) Information on the production, use, distribution, value, and other facts relative to the mineral resources of the state that may be of public interest.

The director or the director's designee may require the division of mineral resources management to perform the duties required by this section.

Each operator engaged in the extraction of minerals shall submit an accurate and complete annual report, on or before the last day of January each year, to the director or the director's designee on forms provided by the director or the director's designee and containing the information specified in divisions (A) to (E) of this section for the immediately preceding calendar year. The director or the director's designee may use all or portions of the information collected pursuant to this section in preparing the annual report required by section 1561.04 of the Revised Code.

No person shall fail to comply with this section.

**Sec. 1506.01.** As used in this chapter:

(A) "Coastal area" means the waters of Lake Erie, the islands in the lake, and the lands under and adjacent to the lake, including transitional areas, wetlands, and beaches. The coastal area extends in Lake Erie to the international boundary line between the United States and Canada and landward only to the extent necessary to include shorelands, the uses of which have a direct and significant impact on coastal waters as determined by the director of natural resources.

(B) "Coastal management program" means the comprehensive action of the state and its political subdivisions cooperatively to preserve, protect, develop, restore, or enhance the resources of the coastal area and to ensure wise use of the land and water resources of the coastal area, giving attention to natural, cultural, historic, and aesthetic values; agricultural, recreational, energy, and economic needs; and the national interest. "Coastal management program" includes the establishment of objectives, policies, standards, and criteria concerning, without limitation, protection of air, water, wildlife, rare and endangered species, wetlands and natural areas, and other natural resources in the coastal area; management of coastal development and redevelopment; preservation and restoration of historic, cultural, and aesthetic coastal features; and public access to the coastal area for recreation purposes.

(C) "Coastal management program document" means a comprehensive statement consisting of, without limitation, text, maps, and illustrations that is adopted by the director in accordance with this chapter, describes the objectives, policies, standards, and criteria of the coastal management program for guiding public and private uses of lands and waters in the coastal area, lists the governmental agencies, including, without limitation, state agencies, involved in implementing the coastal management program, describes their applicable policies and programs, and cites the statutes and rules under which they may adopt and implement those policies and programs.

(D) "Person" means any agency of this state, any political subdivision of this state or of the

United States, and any legal entity defined as a person under section 1.59 of the Revised Code.

(E) "Director" means the director of natural resources or the director's designee.

(F) "Permanent structure" means any residential, commercial, industrial, institutional, or agricultural building, any mobile home as defined in division (O) of section 4501.01 of the Revised Code, any manufactured home as defined in division (C)(4) of section 3781.06 of the Revised Code, and any septic system that receives sewage from a single-family, two-family, or three-family dwelling, but does not include any recreational vehicle as defined in section 4501.01 of the Revised Code.

(G) "State agency" or "agency of the state" has the same meaning as "agency" as defined in section 111.15 of the Revised Code.

(H) "Coastal flood hazard area" means any territory within the coastal area that has been identified as a flood hazard area under the "Flood Disaster Protection Act of 1973," 87 Stat. 975, 42 U.S.C.A. 4002, as amended.

(I) "Coastal erosion area" means any territory included in Lake Erie coastal erosion areas identified by the director under section 1506.06 of the Revised Code.

(J) "Conservancy district" means a conservancy district that is established under Chapter 6101. of the Revised Code.

(K) "Park board" means the board of park commissioners of a park district that is created under Chapter 1545. of the Revised Code.

(L) "Erosion control structure" means a structure that is designed solely and specifically to reduce or control erosion of the shore along or near Lake Erie, including, without limitation, revetments, seawalls, bulkheads, certain breakwaters, and similar structures.

(M) "Shore structure" includes, but is not limited to, beaches; groins; revetments; bulkheads; seawalls; breakwaters; certain dikes designated by the chief of the division of water resources; piers; docks; jetties; wharves; marinas; boat ramps; any associated fill or debris used as part of the construction of shore structures that may affect shore erosion, wave action, or inundation; and fill or debris that is placed along or near the shore, including bluffs, banks, or beach ridges, for the purpose of stabilizing slopes.

**Sec. 1509.01.** As used in this chapter:

(A) "Well" means any borehole, whether drilled or bored, within the state for production, extraction, or injection of any gas or liquid mineral, excluding potable water to be used as such, but including natural or artificial brines and oil field waters.

(B) "Oil" means crude petroleum oil and all other hydrocarbons, regardless of gravity, that are produced in liquid form by ordinary production methods, but does not include hydrocarbons that were originally in a gaseous phase in the reservoir.

(C) "Gas" means all natural gas and all other fluid hydrocarbons that are not oil, including condensate.

(D) "Condensate" means liquid hydrocarbons separated at or near the well pad or along the gas production or gathering system prior to gas processing.

(E) "Pool" means an underground reservoir containing a common accumulation of oil or gas, or both, but does not include a gas storage reservoir. Each zone of a geological structure that is completely separated from any other zone in the same structure may contain a separate pool.



(F) "Field" means the general area underlaid by one or more pools.

(G) "Drilling unit" means the minimum acreage on which one well may be drilled, but does not apply to a well for injecting gas into or removing gas from a gas storage reservoir.

(H) "Waste" includes all of the following:

(1) Physical waste, as that term generally is understood in the oil and gas industry;

(2) Inefficient, excessive, or improper use, or the unnecessary dissipation, of reservoir energy;

(3) Inefficient storing of oil or gas;

(4) Locating, drilling, equipping, operating, or producing an oil or gas well in a manner that reduces or tends to reduce the quantity of oil or gas ultimately recoverable under prudent and proper operations from the pool into which it is drilled or that causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas;

(5) Other underground or surface waste in the production or storage of oil, gas, or condensate, however caused.

(I) "Correlative rights" means the reasonable opportunity to every person entitled thereto to recover and receive the oil and gas in and under the person's tract or tracts, or the equivalent thereof, without having to drill unnecessary wells or incur other unnecessary expense.

(J) "Tract" means a single, individual parcel of land or a portion of a single, individual parcel of land.

(K) "Owner," unless referring to a mine, means the person who has the right to drill on a tract or drilling unit, to drill into and produce from a pool, and to appropriate the oil or gas produced therefrom either for the person or for others, except that a person ceases to be an owner with respect to a well when the well has been plugged in accordance with applicable rules adopted and orders issued under this chapter. "Owner" does not include a person who obtains a lease of the mineral rights for oil and gas on a parcel of land if the person does not attempt to produce or produce oil or gas from a well or obtain a permit under this chapter for a well or if the entire interest of a well is transferred to the person in accordance with division (B) of section 1509.31 of the Revised Code.

(L) "Royalty interest" means the fee holder's share in the production from a well.

(M) "Discovery well" means the first well capable of producing oil or gas in commercial quantities from a pool.

(N) "Prepared clay" means a clay that is plastic and is thoroughly saturated with fresh water to a weight and consistency great enough to settle through saltwater in the well in which it is to be used, except as otherwise approved by the chief of the division of oil and gas resources management.

(O) "Rock sediment" means the combined cutting and residue from drilling sedimentary rocks and formation.

(P) "Excavations and workings," "mine," and "pillar" have the same meanings as in section 1561.01 of the Revised Code.

(Q) "Coal bearing township" means a township designated as such by the chief of the division of mineral resources management under section 1561.06 of the Revised Code.

(R) "Gas storage reservoir" means a continuous area of a subterranean porous sand or rock stratum or strata into which gas is or may be injected for the purpose of storing it therein and removing it therefrom and includes a gas storage reservoir as defined in section 1571.01 of the

Revised Code.

(S) "Safe Drinking Water Act" means the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended by the "Safe Drinking Water Amendments of 1977," 91 Stat. 1393, 42 U.S.C.A. 300(f), the "Safe Drinking Water Act Amendments of 1986," 100 Stat. 642, 42 U.S.C.A. 300(f), and the "Safe Drinking Water Act Amendments of 1996," 110 Stat. 1613, 42 U.S.C.A. 300(f), and regulations adopted under those acts.

(T) "Person" includes any political subdivision, department, agency, or instrumentality of this state; the United States and any department, agency, or instrumentality thereof; any legal entity defined as a person under section 1.59 of the Revised Code; and any other form of business organization or entity recognized by the laws of this state.

(U) "Brine" means all saline geological formation water resulting from, obtained from, or produced in connection with exploration, drilling, well stimulation, production of oil or gas, or plugging of a well.

(V) "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, springs, irrigation systems, drainage systems, and other bodies of water, surface or underground, natural or artificial, that are situated wholly or partially within this state or within its jurisdiction, except those private waters that do not combine or effect a junction with natural surface or underground waters.

(W) "Exempt Mississippian well" means a well that meets all of the following criteria:

- (1) Was drilled and completed before January 1, 1980;
- (2) Is located in an unglaciated part of the state;
- (3) Was completed in a reservoir no deeper than the Mississippian Big Injun sandstone in areas underlain by Pennsylvanian or Permian stratigraphy, or the Mississippian Berea sandstone in areas directly underlain by Permian stratigraphy;
- (4) Is used primarily to provide oil or gas for domestic use.

(X) "Exempt domestic well" means a well that meets all of the following criteria:

- (1) Is owned by the owner of the surface estate of the tract on which the well is located;
- (2) Is used primarily to provide gas for the owner's domestic use;
- (3) Is located more than two hundred feet horizontal distance from any inhabited private dwelling house other than an inhabited private dwelling house located on the tract on which the well is located;
- (4) Is located more than two hundred feet horizontal distance from any public building that may be used as a place of resort, assembly, education, entertainment, lodging, trade, manufacture, repair, storage, traffic, or occupancy by the public.

(Y) "Urbanized area" means an area where a well or production facilities of a well are located within a municipal corporation or within a township that has an unincorporated population of more than five thousand in the most recent federal decennial census prior to the issuance of the permit for the well or production facilities.

(Z) "Well stimulation" or "stimulation of a well" means the process of enhancing well productivity, including hydraulic fracturing operations.

(AA) "Production operation" means all operations and activities and all related equipment, facilities, and other structures that may be used in or associated with the exploration and production

of oil, gas, or other mineral resources that are regulated under this chapter, including operations and activities associated with site preparation, site construction, access road construction, well drilling, well completion, well stimulation, well site activities, reclamation, and plugging. "Production operation" also includes all of the following:

(1) The piping, equipment, and facilities used for the production and preparation of hydrocarbon gas or liquids for transportation or delivery;

(2) The processes of extraction and recovery, lifting, stabilization, treatment, separation, production processing, storage, waste disposal, and measurement of hydrocarbon gas and liquids, including related equipment and facilities;

(3) The processes and related equipment and facilities associated with production compression, gas lift, gas injection, fuel gas supply, well drilling, well stimulation, and well completion activities, including dikes, pits, and earthen and other impoundments used for the temporary storage of fluids and waste substances associated with well drilling, well stimulation, and well completion activities;

(4) Equipment and facilities at a wellpad or other location that are used for the transportation, handling, recycling, temporary storage, management, processing, or treatment of any equipment, material, and by-products or other substances from an operation at a wellpad that may be used or reused at the same or another operation at a wellpad or that will be disposed of in accordance with applicable laws and rules adopted under them.

(BB) "Annular overpressurization" means the accumulation of fluids within an annulus with sufficient pressure to allow migration of annular fluids into underground sources of drinking water.

(CC) "Idle and orphaned well" means a well for which a bond has been forfeited or an abandoned well for which no money is available to plug the well in accordance with this chapter and rules adopted under it.

(DD) "Temporarily inactive well" means a well that has been granted temporary inactive status under section 1509.062 of the Revised Code.

(EE) "Material and substantial violation" means any of the following:

(1) Failure to obtain a permit to drill, reopen, convert, plugback, or plug a well under this chapter;

(2) Failure to obtain, maintain, update, or submit proof of insurance coverage that is required under this chapter;

(3) Failure to obtain, maintain, update, or submit proof of a surety bond that is required under this chapter;

(4) Failure to plug an abandoned well or idle and orphaned well unless the well has been granted temporary inactive status under section 1509.062 of the Revised Code or the chief of the division of oil and gas resources management has approved another option concerning the abandoned well or idle and orphaned well;

(5) Failure to restore a disturbed land surface as required by section 1509.072 of the Revised Code;

(6) Failure to reimburse the oil and gas well fund pursuant to a final order issued under section 1509.071 of the Revised Code;

(7) Failure to comply with a final nonappealable order of the chief issued under section

1509.04 of the Revised Code;

(8) Failure to submit a report, test result, fee, or document that is required in this chapter or rules adopted under it.

(FF) "Severer" has the same meaning as in section 5749.01 of the Revised Code.

(GG) "Horizontal well" means a well that is drilled for the production of oil or gas in which the wellbore reaches a horizontal or near horizontal position in the Point Pleasant, Utica, or Marcellus formation and the well is stimulated.

(HH) "Well pad" means the area that is cleared or prepared for the drilling of one or more horizontal wells.

**Sec. 1509.06.** (A) An application for a permit to drill a new well, drill an existing well deeper, reopen a well, convert a well to any use other than its original purpose, or plug back a well to a different source of supply, including associated production operations, shall be filed with the chief of the division of oil and gas resources management upon such form as the chief prescribes and shall contain each of the following that is applicable:

(1) The name and address of the owner and, if a corporation, the name and address of the statutory agent;

(2) The signature of the owner or the owner's authorized agent. When an authorized agent signs an application, it shall be accompanied by a certified copy of the appointment as such agent.

(3) The names and addresses of all persons holding the royalty interest in the tract upon which the well is located or is to be drilled or within a proposed drilling unit;

(4) The location of the tract or drilling unit on which the well is located or is to be drilled identified by section or lot number, city, village, township, and county;

(5) Designation of the well by name and number;

(6)(a) The geological formation to be tested or used and the proposed total depth of the well;

(b) If the well is for the injection of a liquid, identity of the geological formation to be used as the injection zone and the composition of the liquid to be injected.

(7) The type of drilling equipment to be used;

(8)(a) An identification, to the best of the owner's knowledge, of each proposed source of ground water and surface water that will be used in the production operations of the well. The identification of each proposed source of water shall indicate if the water will be withdrawn from the Lake Erie watershed or the Ohio river watershed. In addition, the owner shall provide, to the best of the owner's knowledge, the proposed estimated rate and volume of the water withdrawal for the production operations. If recycled water will be used in the production operations, the owner shall provide the estimated volume of recycled water to be used. The owner shall submit to the chief an update of any of the information that is required by division (A)(8)(a) of this section if any of that information changes before the chief issues a permit for the application.

(b) Except as provided in division (A)(8)(c) of this section, for an application for a permit to drill a new well within an urbanized area, the results of sampling of water wells within three hundred feet of the proposed well prior to commencement of drilling. In addition, the owner shall include a list that identifies the location of each water well where the owner of the property on which the water well is located denied the owner access to sample the water well. The sampling shall be conducted in accordance with the guidelines established in "Best Management Practices For Pre-drilling Water

Sampling" in effect at the time that the application is submitted. The division shall furnish those guidelines upon request and shall make them available on the division's web site. If the chief determines that conditions at the proposed well site warrant a revision, the chief may revise the distance established in this division for purposes of pre-drilling water sampling.

(c) For an application for a permit to drill a new horizontal well, the results of sampling of water wells within one thousand five hundred feet of the proposed horizontal wellhead prior to commencement of drilling. In addition, the owner shall include a list that identifies the location of each water well where the owner of the property on which the water well is located denied the owner access to sample the water well. The sampling shall be conducted in accordance with the guidelines established in "Best Management Practices For Pre-drilling Water Sampling" in effect at the time that the application is submitted. The division shall furnish those guidelines upon request and shall make them available on the division's web site. If the chief determines that conditions at the proposed well site warrant a revision, the chief may revise the distance established in this division for purposes of pre-drilling water sampling.

(9) For an application for a permit to drill a new well within an urbanized area, a sworn statement that the applicant has provided notice by regular mail of the application to the owner of each parcel of real property that is located within five hundred feet of the surface location of the well and to the executive authority of the municipal corporation or the board of township trustees of the township, as applicable, in which the well is to be located. In addition, the notice shall contain a statement that informs an owner of real property who is required to receive the notice under division (A)(9) of this section that within five days of receipt of the notice, the owner is required to provide notice under section 1509.60 of the Revised Code to each residence in an occupied dwelling that is located on the owner's parcel of real property. The notice shall contain a statement that an application has been filed with the division of oil and gas resources management, identify the name of the applicant and the proposed well location, include the name and address of the division, and contain a statement that comments regarding the application may be sent to the division. The notice may be provided by hand delivery or regular mail. The identity of the owners of parcels of real property shall be determined using the tax records of the municipal corporation or county in which a parcel of real property is located as of the date of the notice.

(10) A plan for restoration of the land surface disturbed by drilling operations. The plan shall provide for compliance with the restoration requirements of division (A) of section 1509.072 of the Revised Code and any rules adopted by the chief pertaining to that restoration.

(11)(a) A description by name or number of the county, township, and municipal corporation roads, streets, and highways that the applicant anticipates will be used for access to and egress from the well site;

(b) For an application for a permit for a horizontal well, a copy of an agreement concerning maintenance and safe use of the roads, streets, and highways described in division (A)(11)(a) of this section entered into on reasonable terms with the public official that has the legal authority to enter into such maintenance and use agreements for each county, township, and municipal corporation, as applicable, in which any such road, street, or highway is located or an affidavit on a form prescribed by the chief attesting that the owner attempted in good faith to enter into an agreement under division (A)(11)(b) of this section with the applicable public official of each such county, township, or

municipal corporation, but that no agreement was executed.

(12) Such other relevant information as the chief prescribes by rule.

Each application shall be accompanied by a map, on a scale not smaller than four hundred feet to the inch, prepared by an Ohio registered surveyor, showing the location of the well and containing such other data as may be prescribed by the chief. If the well is or is to be located within the excavations and workings of a mine, the map also shall include the location of the mine, the name of the mine, and the name of the person operating the mine.

(B) The chief shall cause a copy of the weekly circular prepared by the division to be provided to the county engineer of each county that contains active or proposed drilling activity. The weekly circular shall contain, in the manner prescribed by the chief, the names of all applicants for permits, the location of each well or proposed well, the information required by division (A)(11) of this section, and any additional information the chief prescribes. In addition, the chief promptly shall transfer an electronic copy or facsimile, or if those methods are not available to a municipal corporation or township, a copy via regular mail, of a drilling permit application to the clerk of the legislative authority of the municipal corporation or to the clerk of the township in which the well or proposed well is or is to be located if the legislative authority of the municipal corporation or the board of township trustees has asked to receive copies of such applications and the appropriate clerk has provided the chief an accurate, current electronic mailing address or facsimile number, as applicable.

(C)(1) Except as provided in division (C)(2) of this section, the chief shall not issue a permit for at least ten days after the date of filing of the application for the permit unless, upon reasonable cause shown, the chief waives that period or a request for expedited review is filed under this section. However, the chief shall issue a permit within twenty-one days of the filing of the application unless the chief denies the application by order.

(2) If the location of a well or proposed well will be or is within an urbanized area, the chief shall not issue a permit for at least eighteen days after the date of filing of the application for the permit unless, upon reasonable cause shown, the chief waives that period or the chief at the chief's discretion grants a request for an expedited review. However, the chief shall issue a permit for a well or proposed well within an urbanized area within thirty days of the filing of the application unless the chief denies the application by order.

(D) An applicant may file a request with the chief for expedited review of a permit application if the well is not or is not to be located in a gas storage reservoir or reservoir protective area, as "reservoir protective area" is defined in section 1571.01 of the Revised Code. If the well is or is to be located in a coal bearing township, the application shall be accompanied by the affidavit of the landowner prescribed in section 1509.08 of the Revised Code.

In addition to a complete application for a permit that meets the requirements of this section and the permit fee prescribed by this section, a request for expedited review shall be accompanied by a separate nonrefundable filing fee of two hundred fifty dollars. Upon the filing of a request for expedited review, the chief shall cause the county engineer of the county in which the well is or is to be located to be notified of the filing of the permit application and the request for expedited review by telephone or other means that in the judgment of the chief will provide timely notice of the application and request. The chief shall issue a permit within seven days of the filing of the request

unless the chief denies the application by order. Notwithstanding the provisions of this section governing expedited review of permit applications, the chief may refuse to accept requests for expedited review if, in the chief's judgment, the acceptance of the requests would prevent the issuance, within twenty-one days of their filing, of permits for which applications are pending.

(E) A well shall be drilled and operated in accordance with the plans, sworn statements, and other information submitted in the approved application.

(F) The chief shall issue an order denying a permit if the chief finds that there is a substantial risk that the operation will result in violations of this chapter or rules adopted under it that will present an imminent danger to public health or safety or damage to the environment, provided that where the chief finds that terms or conditions to the permit can reasonably be expected to prevent such violations, the chief shall issue the permit subject to those terms or conditions, including, if applicable, terms and conditions regarding subjects identified in rules adopted under section 1509.03 of the Revised Code. The issuance of a permit shall not be considered an order of the chief.

The chief shall post notice of each permit that has been approved under this section on the division's web site not later than two business days after the application for a permit has been approved.

(G) Each application for a permit required by section 1509.05 of the Revised Code, except an application for a well drilled or reopened for purposes of section 1509.22 of the Revised Code, also shall be accompanied by a nonrefundable fee as follows:

(1) Five hundred dollars for a permit to conduct activities in a township with a population of fewer than ten thousand;

(2) Seven hundred fifty dollars for a permit to conduct activities in a township with a population of ten thousand or more, but fewer than fifteen thousand;

(3) One thousand dollars for a permit to conduct activities in either of the following:

(a) A township with a population of fifteen thousand or more;

(b) A municipal corporation regardless of population.

(4) If the application is for a permit that requires mandatory pooling, an additional five thousand dollars.

For purposes of calculating fee amounts, populations shall be determined using the most recent federal decennial census.

Each application for the revision or reissuance of a permit shall be accompanied by a nonrefundable fee of two hundred fifty dollars.

(H)(1) Prior to the commencement of well pad construction and prior to the issuance of a permit to drill a proposed horizontal well or a proposed well that is to be located in an urbanized area, the division shall conduct a site review to identify and evaluate any site-specific terms and conditions that may be attached to the permit. At the site review, a representative of the division shall consider fencing, screening, and landscaping requirements, if any, for similar structures in the community in which the well is proposed to be located. The terms and conditions that are attached to the permit shall include the establishment of fencing, screening, and landscaping requirements for the surface facilities of the proposed well, including a tank battery of the well.

(2) Prior to the issuance of a permit to drill a proposed well, the division shall conduct a review to identify and evaluate any site-specific terms and conditions that may be attached to the

permit if the proposed well will be located in a one-hundred-year floodplain or within the five-year time of travel associated with a public drinking water supply.

(I) A permit shall be issued by the chief in accordance with this chapter. A permit issued under this section for a well that is or is to be located in an urbanized area shall be valid for twelve months, and all other permits issued under this section shall be valid for twenty-four months.

(J) An applicant or a permittee, as applicable, shall submit to the chief an update of the information that is required under division (A)(8)(a) of this section if any of that information changes prior to commencement of production operations.

(K) A permittee or a permittee's authorized representative shall notify an inspector from the division at least twenty-four hours, or another time period agreed to by the chief's authorized representative, prior to the commencement of well pad construction and of drilling, reopening, converting, well stimulation, or plugback operations.

**Sec. 1509.11.** (A)(1) The owner of any well, except a horizontal well, that is producing or capable of producing oil or gas shall file with the chief of the division of oil and gas resources management, on or before the thirty-first day of March, a statement of production of oil, gas, and brine for the last preceding calendar year in such form as the chief may prescribe. An owner that has more than one hundred such wells in this state shall submit electronically the statement of production in a format that is approved by the chief.

(2) The owner of any horizontal well that is producing or capable of producing oil or gas shall file with the chief, on the forty-fifth day following the close of each calendar quarter, a statement of production of oil, gas, and brine for the preceding calendar quarter in a form that the chief prescribes. An owner that has more than one hundred horizontal wells in this state shall submit electronically the statement of production in a format that is approved by the chief.

(B) The chief shall not disclose information received from the department of taxation under division (C)(12) of section 5703.21 of the Revised Code until the related statement of production required by division (A) of this section is filed with the chief.

**Sec. 1509.23.** Rules of the chief of the division of oil and gas resources management may specify practices to be followed in the drilling and treatment of wells, production of oil and gas, and plugging of wells for protection of public health or safety or to prevent damage to natural resources, including specification of the following:

(A) Appropriate devices;

(B) Minimum distances that wells and other excavations, structures, and equipment shall be located from water wells, streets, roads, highways, rivers, lakes, streams, ponds, other bodies of water, railroad tracks, public or private recreational areas, zoning districts, and buildings or other structures. Rules adopted under this division shall not conflict with section 1509.021 of the Revised Code.

(C) Other methods of operation;

(D) Procedures, methods, and equipment and other requirements for equipment to prevent and contain discharges of oil and brine from oil production facilities and oil drilling and workover facilities consistent with and equivalent in scope, content, and coverage to section 311(j)(1)(c) of the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended, and regulations adopted under it. In addition, the rules may specify procedures, methods,



and equipment and other requirements for equipment to prevent and contain surface and subsurface discharges of fluids, condensates, and gases.

(E) Notifications;

(F) Requirements governing the location and construction of fresh water impoundments that are part of a production operation.

**Sec. 1509.231.**

**Sec. 1509.232.**

**Sec. 1509.27.** If a tract or tracts are of insufficient size or shape to meet the requirements for drilling a proposed well thereon as provided in section 1509.24 or 1509.25 of the Revised Code, whichever is applicable, and the owner has been unable to form a drilling unit under agreement as provided in section 1509.26 of the Revised Code, on a just and equitable basis, the owner may make application to the division of oil and gas resources management for a mandatory pooling order.

The application shall include information as shall be reasonably required by the chief of the division of oil and gas resources management and shall be accompanied by an application for a permit as required by section 1509.05 of the Revised Code. The chief shall notify all mineral rights owners of tracts within the area proposed to be pooled by an order and included within the drilling unit of the filing of the application and of their right to a hearing. After the hearing or after the expiration of thirty days from the date notice of application was mailed to such owners, the chief, if satisfied that the application is proper in form and that mandatory pooling is necessary to protect correlative rights and to provide effective development, use, and conservation of oil and gas, shall issue a drilling permit and a mandatory pooling order complying with the requirements for drilling a well as provided in section 1509.24 or 1509.25 of the Revised Code, whichever is applicable. The mandatory pooling order shall:

(A) Designate the boundaries of the drilling unit within which the well shall be drilled;

(B) Designate the proposed production site;

(C) Describe each separately owned tract or part thereof pooled by the order;

(D) Allocate on a surface acreage basis a pro rata portion of the production to each tract pooled by the order. The pro rata portion shall be in the same proportion that the percentage of the tract's acreage is to the state minimum acreage requirements established in rules adopted under this chapter for a drilling unit unless the applicant demonstrates to the chief using geological evidence that the geologic structure containing the oil or gas is larger than the minimum acreage requirement in which case the pro rata portion shall be in the same proportion that the percentage of the tract's acreage is to the geologic structure.

(E) Specify the basis upon which each mineral rights owner of a tract pooled by the order shall share all reasonable costs and expenses of drilling and producing if the mineral rights owner elects to participate in the drilling and operation of the well;

(F) Designate the person to whom the permit shall be issued.

A person shall not submit more than five applications for mandatory pooling orders per year under this section unless otherwise approved by the chief.

No surface operations or disturbances to the surface of the land shall occur on a tract pooled by an order without the written consent of or a written agreement with the surface rights owner of the tract that approves the operations or disturbances.

If a mineral rights owner of a tract pooled by the order does not elect to participate in the risk and cost of the drilling and operation of a well, the mineral rights owner shall be designated as a nonparticipating owner in the drilling and operation of the well on a limited or carried basis and is subject to terms and conditions determined by the chief to be just and reasonable. In addition, if a mineral rights owner is designated as a nonparticipating owner, the mineral rights owner is not liable for actions or conditions associated with the drilling or operation of the well. If the applicant bears the costs of drilling, equipping, and operating a well for the benefit of a nonparticipating owner, as provided for in the pooling order, then the applicant shall be entitled to the share of production from the drilling unit accruing to the interest of that nonparticipating owner, exclusive of the nonparticipating owner's proportionate share of the royalty interest until there has been received the share of costs charged to that nonparticipating owner plus such additional percentage of the share of costs as the chief shall determine. The total amount receivable hereunder shall in no event exceed two hundred per cent of the share of costs charged to that nonparticipating owner. After receipt of that share of costs by such an applicant, a nonparticipating owner shall receive a proportionate share of the working interest in the well in addition to a proportionate share of the royalty interest, if any.

If there is a dispute as to costs of drilling, equipping, or operating a well, the chief shall determine those costs.

**Sec. 1509.28.** (A) The chief of the division of oil and gas resources management, upon the chief's own motion or upon application by the owners of sixty-five per cent of the land area overlying the pool, shall hold a hearing to consider the need for the operation as a unit of an entire pool or part thereof. An application by owners shall be accompanied by a nonrefundable fee of ten thousand dollars and by such information as the chief may request.

The chief shall make an order providing for the unit operation of a pool or part thereof if the chief finds that such operation is reasonably necessary to increase substantially the ultimate recovery of oil and gas, and the value of the estimated additional recovery of oil or gas exceeds the estimated additional cost incident to conducting the operation. The order shall be upon terms and conditions that are just and reasonable and shall prescribe a plan for unit operations that shall include:

- (1) A description of the unitized area, termed the unit area;
- (2) A statement of the nature of the operations contemplated;
- (3) An allocation to the separately owned tracts in the unit area of all the oil and gas that is produced from the unit area and is saved, being the production that is not used in the conduct of operations on the unit area or not unavoidably lost. The allocation shall be in accord with the agreement, if any, of the interested parties. If there is no such agreement, the chief shall determine the value, from the evidence introduced at the hearing, of each separately owned tract in the unit area, exclusive of physical equipment, for development of oil and gas by unit operations, and the production allocated to each tract shall be the proportion that the value of each tract so determined bears to the value of all tracts in the unit area.
- (4) A provision for the credits and charges to be made in the adjustment among the owners in the unit area for their respective investments in wells, tanks, pumps, machinery, materials, and equipment contributed to the unit operations;
- (5) A provision providing how the expenses of unit operations, including capital investment, shall be determined and charged to the separately owned tracts and how the expenses shall be paid;

(6) A provision, if necessary, for carrying or otherwise financing any person who is unable to meet the person's financial obligations in connection with the unit, allowing a reasonable interest charge for such service;

(7) A provision for the supervision and conduct of the unit operations, in respect to which each person shall have a vote with a value corresponding to the percentage of the expenses of unit operations chargeable against the interest of that person;

(8) The time when the unit operations shall commence, and the manner in which, and the circumstances under which, the unit operations shall terminate;

(9) Such additional provisions as are found to be appropriate for carrying on the unit operations, and for the protection or adjustment of correlative rights.

(B) No order of the chief providing for unit operations shall become effective unless and until the plan for unit operations prescribed by the chief has been approved in writing by those owners who, under the chief's order, will be required to pay at least sixty-five per cent of the costs of the unit operation, and also by the royalty or, with respect to unleased acreage, fee owners of sixty-five per cent of the acreage to be included in the unit. If the plan for unit operations has not been so approved by owners and royalty owners at the time the order providing for unit operations is made, the chief shall upon application and notice hold such supplemental hearings as may be required to determine if and when the plan for unit operations has been so approved. If the owners and royalty owners, or either, owning the required percentage of interest in the unit area do not approve the plan for unit operations within a period of six months from the date on which the order providing for unit operations is made, the order shall cease to be of force and shall be revoked by the chief.

An order providing for unit operations may be amended by an order made by the chief, in the same manner and subject to the same conditions as an original order providing for unit operations, provided that:

(1) If such an amendment affects only the rights and interests of the owners, the approval of the amendment by the royalty owners shall not be required.

(2) No such order of amendment shall change the percentage for allocation of oil and gas as established for any separately owned tract by the original order, except with the consent of all persons owning interest in the tract.

The chief, by an order, may provide for the unit operation of a pool or a part thereof that embraces a unit area established by a previous order of the chief. Such an order, in providing for the allocation of unit production, shall first treat the unit area previously established as a single tract, and the portion of the unit production so allocated thereto shall then be allocated among the separately owned tracts included in the previously established unit area in the same proportions as those specified in the previous order.

Oil and gas allocated to a separately owned tract shall be deemed, for all purposes, to have been actually produced from the tract, and all operations, including, but not limited to, the commencement, drilling, operation of, or production from a well upon any portion of the unit area shall be deemed for all purposes the conduct of such operations and production from any lease or contract for lands any portion of which is included in the unit area. The operations conducted pursuant to the order of the chief shall constitute a fulfillment of all the express or implied obligations of each lease or contract covering lands in the unit area to the extent that compliance with

such obligations cannot be had because of the order of the chief.

Oil and gas allocated to any tract, and the proceeds from the sale thereof, shall be the property and income of the several persons to whom, or to whose credit, the same are allocated or payable under the order providing for unit operations.

No order of the chief or other contract relating to the sale or purchase of production from a separately owned tract shall be terminated by the order providing for unit operations, but shall remain in force and apply to oil and gas allocated to the tract until terminated in accordance with the provisions thereof.

Notwithstanding divisions (A) to (H) of section 1509.73 of the Revised Code and rules adopted under it, the chief shall issue an order for the unit operation of a pool or a part of a pool that encompasses a unit area for which all or a portion of the mineral rights are owned by the department of transportation.

Except to the extent that the parties affected so agree, no order providing for unit operations shall be construed to result in a transfer of all or any part of the title of any person to the oil and gas rights in any tract in the unit area. All property, whether real or personal, that may be acquired for the account of the owners within the unit area shall be the property of such owners in the proportion that the expenses of unit operations are charged.

**Sec. 1509.33.** (A) Whoever violates sections 1509.01 to 1509.31 of the Revised Code, or any rules adopted or orders or terms or conditions of a permit or registration certificate issued pursuant to these sections for which no specific penalty is provided in this section, shall pay a civil penalty of not more than ten thousand dollars for each offense.

(B) Whoever violates section 1509.221 of the Revised Code or any rules adopted or orders or terms or conditions of a permit issued thereunder shall pay a civil penalty of not more than ten thousand dollars for each violation.

(C) Whoever violates division (D) of section 1509.22 or division (A)(1) of section 1509.222 of the Revised Code shall pay a civil penalty of not less than two thousand five hundred dollars nor more than twenty thousand dollars for each violation.

(D) Whoever violates division (A) of section 1509.22 of the Revised Code shall pay a civil penalty of not less than two thousand five hundred dollars nor more than ten thousand dollars for each violation.

(E) Whoever violates division (A) of section 1509.223 of the Revised Code shall pay a civil penalty of not more than ten thousand dollars for each violation.

(F) Whoever violates section 1509.072 of the Revised Code or any rules adopted or orders issued to administer, implement, or enforce that section shall pay a civil penalty of not more than five thousand dollars for each violation.

(G) In addition to any other penalties provided in this chapter, whoever violates section 1509.05, section 1509.21, division (B) of section 1509.22, or division (A)(1) of section 1509.222 of the Revised Code or a term or condition of a permit or an order issued by the chief of the division of oil and gas resources management under this chapter or knowingly violates division (A) of section 1509.223 of the Revised Code is liable for any damage or injury caused by the violation and for the actual cost of rectifying the violation and conditions caused by the violation. If two or more persons knowingly violate one or more of those divisions in connection with the same event, activity, or

transaction, they are jointly and severally liable under this division.

(H) The attorney general, upon the request of the chief of the division of oil and gas resources management, shall commence an action under this section against any person who violates sections 1509.01 to 1509.31 of the Revised Code, or any rules adopted or orders or terms or conditions of a permit or registration certificate issued pursuant to these sections. Any action under this section is a civil action, governed by the Rules of Civil Procedure and other rules of practice and procedure applicable to civil actions. The remedy provided in this division is cumulative and concurrent with any other remedy provided in this chapter, and the existence or exercise of one remedy does not prevent the exercise of any other, except that no person shall be subject to both a civil penalty under division (A), (B), (C), or (D) of this section and a fine established in section 1509.99 of the Revised Code for the same offense.

(I) For purposes of this section, each day of violation constitutes a separate offense.

**Sec. 1511.02.** The chief of the division of soil and water resources, subject to the approval of the director of natural resources, shall do all of the following:

(A) Provide administrative leadership to soil and water conservation districts in planning, budgeting, staffing, and administering district programs and the training of district supervisors and personnel in their duties, responsibilities, and authorities as prescribed in this chapter and Chapter 1515. of the Revised Code;

(B) Administer this chapter and Chapter 1515. of the Revised Code pertaining to state responsibilities and provide staff assistance to the Ohio soil and water conservation commission in exercising its statutory responsibilities;

(C) Assist in expediting state responsibilities for watershed development and other natural resource conservation works of improvement;

(D) Coordinate the development and implementation of cooperative programs and working agreements between soil and water conservation districts and divisions or sections of the department of natural resources, or other agencies of local, state, and federal government;

(E) Subject to the approval of the Ohio soil and water conservation commission, adopt, amend, or rescind rules pursuant to Chapter 119. of the Revised Code. Rules adopted pursuant to this section:

(1) Shall establish technically feasible and economically reasonable standards to achieve a level of management and conservation practices in farming or silvicultural operations that will abate wind or water erosion of the soil or abate the degradation of the waters of the state by residual farm products, manure, or soil sediment, including substances attached thereto, and establish criteria for determination of the acceptability of such management and conservation practices;

(2) Shall establish technically feasible and economically reasonable standards to achieve a level of management and conservation practices that will abate wind or water erosion of the soil or abate the degradation of the waters of the state by soil sediment in conjunction with land grading, excavating, filling, or other soil-disturbing activities on land used or being developed for nonfarm commercial, industrial, residential, or other nonfarm purposes, and establish criteria for determination of the acceptability of such management and conservation practices. The standards shall be designed to implement applicable areawide waste treatment management plans prepared under section 208 of the "Federal Water Pollution Control Act," 86 Stat. 816 (1972), 33 U.S.C.A.

1288, as amended. The standards and criteria shall not apply in any municipal corporation or county that adopts ordinances or rules pertaining to sediment control, nor to lands being used in a strip mine operation as defined in section 1513.01 of the Revised Code, nor to lands being used in a surface mining operation as defined in section 1514.01 of the Revised Code.

(3) May recommend criteria and procedures for the approval of urban sediment pollution abatement plans and issuance of permits prior to any grading, excavating, filling, or other whole or partial disturbance of five or more contiguous acres of land owned by one person or operated as one development unit and require implementation of such a plan. Areas of less than five contiguous acres are not exempt from compliance with other provisions of this chapter and rules adopted under them.

(4) Shall establish procedures for administration of rules for agricultural pollution abatement and urban sediment pollution abatement and for enforcement of rules for agricultural pollution abatement;

(5) Shall specify the pollution abatement practices eligible for state cost sharing and determine the conditions for eligibility, the construction standards and specifications, the useful life, the maintenance requirements, and the limits of cost sharing for those practices. Eligible practices shall be limited to practices that address agricultural or silvicultural operations and that require expenditures that are likely to exceed the economic returns to the owner or operator and that abate soil erosion or degradation of the waters of the state by residual farm products, manure, or soil sediment, including pollutants attached thereto.

(6) Shall establish procedures for administering grants to owners or operators of agricultural land or animal feeding operations for the implementation of operation and management plans;

(7) Shall establish procedures for administering grants to soil and water conservation districts for urban sediment pollution abatement programs, specify the types of projects eligible for grants, establish limits on the availability of grants, and establish requirements governing the execution of projects to encourage the reduction of erosion and sedimentation associated with soil-disturbing activities;

(8) Shall do all of the following with regard to composting conducted in conjunction with agricultural operations:

(a) Provide for the distribution of educational material concerning composting to the offices of OSU extension for the purposes of section 1511.022 of the Revised Code;

(b) Establish methods, techniques, or practices for composting dead animals, or particular types of dead animals, that are to be used at such operations, as the chief considers to be necessary or appropriate;

(c) Establish requirements and procedures governing the review and approval or disapproval of composting plans by the supervisors of soil and water conservation districts under division (Q) of section 1515.08 of the Revised Code.

(9) Shall be adopted, amended, or rescinded after the chief does all of the following:

(a) Mails notice to each statewide organization that the chief determines represents persons or local governmental agencies who would be affected by the proposed rule, amendment thereto, or rescission thereof at least thirty-five days before any public hearing thereon;

(b) Mails a copy of each proposed rule, amendment thereto, or rescission thereof to any person who requests a copy, within five days after receipt of the request;

(c) Consults with appropriate state and local governmental agencies or their representatives, including statewide organizations of local governmental officials, industrial representatives, and other interested persons;

(d) If the rule relates to agricultural pollution abatement, develops an economic impact statement concerning the effect of the proposed rule or amendment.

(10) Shall not conflict with air or water quality standards adopted pursuant to section 3704.03 or 6111.041 of the Revised Code. Compliance with rules adopted pursuant to this section does not affect liability for noncompliance with air or water quality standards adopted pursuant to section 3704.03 or 6111.041 of the Revised Code. The application of a level of management and conservation practices recommended under this section to control windblown soil from farming operations creates a presumption of compliance with section 3704.03 of the Revised Code as that section applies to windblown soil.

(11) Insofar as the rules relate to urban sediment pollution, shall not be applicable in a municipal corporation or county that adopts ordinances or rules for urban sediment control, except that a municipal corporation or county that adopts such ordinances or rules may receive moneys for urban sediment control that are disbursed by the board of supervisors of the applicable soil and water conservation district under division (N) of section 1515.08 of the Revised Code. The rules shall not exempt any person from compliance with municipal ordinances enacted pursuant to Section 3 of Article XVIII, Ohio Constitution.

(F) Cost share with landowners on practices established pursuant to division (E)(5) of this section as moneys are appropriated and available for that purpose. Any practice for which cost share is provided shall be maintained for its useful life. Failure to maintain a cost share practice for its useful life shall subject the landowner to full repayment to the division.

(G) Issue orders requiring compliance with any rule adopted under division (E)(1) of this section or with section 1511.022 of the Revised Code. Before the chief issues an order, the chief shall afford each person allegedly liable an adjudication hearing under Chapter 119. of the Revised Code. The chief may require in an order that a person who has caused agricultural pollution by failure to comply with the standards established under division (E)(1) of this section operate under an operation and management plan approved by the chief under this section. The chief shall require in an order that a person who has failed to comply with division (A) of section 1511.022 of the Revised Code prepare a composting plan in accordance with rules adopted under division (E)(8)(c) of this section and operate in accordance with that plan or that a person who has failed to operate in accordance with such a plan begin to operate in accordance with it. Each order shall be issued in writing and contain a finding by the chief of the facts upon which the order is based and the standard that is not being met.

(H) Employ field assistants and such other employees as are necessary for the performance of the work prescribed by Chapter 1515. of the Revised Code, for performance of work of the division, and as agreed to under working agreements or contractual arrangements with soil and water conservation districts, prescribe their duties, and fix their compensation in accordance with such schedules as are provided by law for the compensation of state employees.

All employees of the division, unless specifically exempted by law, shall be employed subject to the classified civil service laws in force at the time of employment.

(I) In connection with new or relocated projects involving highways, underground cables, pipelines, railroads, and other improvements affecting soil and water resources, including surface and subsurface drainage:

(1) Provide engineering service as is mutually agreeable to the Ohio soil and water conservation commission and the director to aid in the design and installation of soil and water conservation practices as a necessary component of such projects;

(2) Maintain close liaison between the owners of lands on which the projects are executed, soil and water conservation districts, and authorities responsible for such projects;

(3) Review plans for such projects to ensure their compliance with standards developed under division (E) of this section in cooperation with the department of transportation or with any other interested agency that is engaged in soil or water conservation projects in the state in order to minimize adverse impacts on soil and water resources adjacent to or otherwise affected by these projects;

(4) Recommend measures to retard erosion and protect soil and water resources through the installation of water impoundment or other soil and water conservation practices;

(5) Cooperate with other agencies and subdivisions of the state to protect the agricultural status of rural lands adjacent to such projects and control adverse impacts on soil and water resources.

(J) Collect, analyze, inventory, and interpret all available information pertaining to the origin, distribution, extent, use, and conservation of the soil resources of the state;

(K) Prepare and maintain up-to-date reports, maps, and other materials pertaining to the soil resources of the state and their use and make that information available to governmental agencies, public officials, conservation entities, and the public;

(L) Provide soil and water conservation districts with technical assistance including on-site soil investigations and soil interpretation reports on the suitability or limitations of soil to support a particular use or to plan soil conservation measures. The assistance shall be upon such terms as are mutually agreeable to the districts and the department of natural resources.

(M) Assist local government officials in utilizing land use planning and zoning, current agricultural use value assessment, development reviews, and land management activities;

(N) When necessary for the purposes of this chapter or Chapter 1515. of the Revised Code, develop or approve operation and management plans.

This section does not restrict the manure of domestic or farm animals defecated on land outside an animal feeding operation or runoff therefrom into the waters of the state.

**Sec. 1511.021.** (A) Any person who owns or operates agricultural land or an animal feeding operation may develop and operate under an operation and management plan approved by the chief of the division of soil and water resources under section 1511.02 of the Revised Code or by the supervisors of the applicable soil and water conservation district under section 1515.08 of the Revised Code.

(B) Any person who wishes to make a complaint regarding nuisances involving agricultural pollution may do so orally or by submitting a written, signed, and dated complaint to the chief or to the chief's designee. After receiving an oral complaint, the chief or the chief's designee may cause an investigation to be conducted to determine whether agricultural pollution has occurred or is



imminent. After receiving a written, signed, and dated complaint, the chief or the chief's designee shall cause such an investigation to be conducted.

(C) In a private civil action for nuisances involving agricultural pollution, it is an affirmative defense if the person owning, operating, or otherwise responsible for agricultural land or an animal feeding operation is operating under and in substantial compliance with an approved operation and management plan developed under division (A) of this section, with an operation and management plan developed by the chief under section 1511.02 of the Revised Code or by the supervisors of the applicable soil and water conservation district under section 1515.08 of the Revised Code, or with an operation and management plan required by an order issued by the chief under division (G) of section 1511.02 of the Revised Code. Nothing in this section is in derogation of the authority granted to the chief in division (E) of section 1511.02 and in section 1511.07 of the Revised Code.

**Sec. 1511.022.** (A) Any person who owns or operates an agricultural operation, or owns the animals raised by the owner or operator of an agricultural operation, and who wishes to conduct composting of dead animals resulting from the agricultural operation shall do both of the following:

(1) Participate in an educational course concerning composting conducted by OSU extension and obtain a certificate of completion for the course;

(2) Use the appropriate method, technique, or practice of composting established in rules adopted under division (E)(8) of section 1511.02 of the Revised Code.

(B) Any person who fails to comply with division (A) of this section shall prepare and operate under a composting plan in accordance with an order issued by the chief of the division of soil and water resources under division (G) of section 1511.02 of the Revised Code. If the person's proposed composting plan is disapproved by the board of supervisors of the appropriate soil and water conservation district under division (Q)(3) of section 1515.08 of the Revised Code, the person may appeal the plan disapproval to the chief, who shall afford the person a hearing. Following the hearing, the chief shall uphold the plan disapproval or reverse it. If the chief reverses the disapproval, the plan shall be deemed approved.

**Sec. 1511.03.** The chief of the division of soil and water resources may enter into contracts or agreements, with the approval of the director of natural resources, with any agency of the United States government, or any other public or private agency, or organization, for the performance of the prescribed duties of the division, or for accomplishing cooperative projects within the designated duties of the division.

**Sec. 1511.05.** The chief of the division of soil and water resources, subject to approval of the terms of the agreement by the soil and water conservation commission, shall enter into cooperative agreements with the board of supervisors of any soil and water conservation district desiring to enter into such agreements pursuant to section 1515.08 of the Revised Code. Such agreements shall be entered into to obtain compliance with rules and orders of the chief pertaining to agricultural pollution abatement and urban sediment pollution abatement.

The chief or any person designated by the chief may upon obtaining agreement with the owner, tenant, or manager of any land, public or private, enter thereon to make inspections to determine whether or not there is compliance with the rules adopted under division (E)(1) of section 1511.02 of the Revised Code. Upon reason to believe there is a violation, the chief or the chief's designee may apply for and a judge of the court of common pleas for the county where the land is

located may issue an appropriate inspection warrant as necessary to achieve the purposes of this chapter.

**Sec. 1511.071.** There is hereby created in the state treasury the agricultural pollution abatement fund, which shall be administered by the chief of the division of soil and water resources. The fund may be used to pay costs incurred by the division under division (A)(3) of section 1511.07 of the Revised Code in investigating, mitigating, minimizing, removing, or abating any pollution of the waters of the state caused by agricultural pollution or an unauthorized release, spill, or discharge of manure into or upon the environment that requires emergency action to protect the public health.

Any person responsible for causing or allowing agricultural pollution or an unauthorized release, spill, or discharge is liable to the chief for any costs incurred by the division and soil and water conservation districts in investigating, mitigating, minimizing, removing, or abating the agricultural pollution or release, spill, or discharge, regardless of whether those costs were paid out of the agricultural pollution abatement fund or any other fund of the division or a district. Upon the request of the chief, the attorney general shall bring a civil action against the responsible person to recover those costs. Moneys recovered under this section shall be paid into the agricultural pollution abatement fund.

**Sec. 1511.10.** (A) Except as provided in division (B) of this section, no person in the western basin shall surface apply manure under any of the following circumstances:

- (1) On snow-covered or frozen soil;
- (2) When the top two inches of soil are saturated from precipitation;
- (3) When the local weather forecast for the application area contains greater than a fifty per cent chance of precipitation exceeding one-half inch in a twenty-four-hour period.

(B) Division (A) of this section does not apply if a person in the western basin applies manure under any of the following circumstances:

- (1) The manure is injected into the ground.
- (2) The manure is incorporated within twenty-four hours of surface application.
- (3) The manure is applied onto a growing crop.
- (4) In the event of an emergency, the director of agriculture or the director's designee provides written consent and the manure application is made in accordance with procedures established in the United States department of agriculture natural resources conservation service practice standard code 590 prepared for this state.

(C)(1) Upon receiving a complaint by any person or upon receiving information that would indicate a violation of this section, the director or the director's designee may investigate or make inquiries into any alleged failure to comply with this section.

(2) After receiving a complaint by any person or upon receiving information that would indicate a violation of this section, the director or the director's designee may enter at reasonable times on any private or public property to inspect and investigate conditions relating to any such alleged failure to comply with this section.

(3) If an individual denies access to the individual's property, the director may apply to a court of competent jurisdiction in the county in which the premises is located for a search warrant authorizing access to the premises for the purposes of this section.

(4) The court shall issue the search warrant for the purposes requested if there is probable

cause to believe that the person is not in compliance with this section. The finding of probable cause may be based on hearsay, provided that there is a reasonable basis for believing that the source of the hearsay is credible.

(D) This section does not affect any restrictions established in Chapter 903. of the Revised Code or otherwise apply to those entities or facilities that are permitted as concentrated animal feeding facilities under that chapter.

(E) As used in this section, "western basin" has the same meaning as in section 905.326 of the Revised Code.

**Sec. 1511.11.** (A) Except as provided in division (D) of this section, the director of agriculture may assess a civil penalty against a person that violates section 939.08 of the Revised Code. The director may impose a civil penalty only if the director affords the person an opportunity for an adjudication hearing under Chapter 119. of the Revised Code to challenge the director's determination that the person violated section 939.08 of the Revised Code. The person may waive the right to an adjudication hearing.

(B) If the opportunity for an adjudication hearing is waived or if, after an adjudication hearing, the director determines that a violation has occurred or is occurring, the director may issue an order requiring compliance with section 939.08 of the Revised Code and assess the civil penalty. The order and the assessment of the civil penalty may be appealed in accordance with section 119.12 of the Revised Code.

(C) A person that has violated section 939.08 of the Revised Code shall pay a civil penalty in an amount established in rules. Each day during which manure is applied in violation of section 939.08 of the Revised Code constitutes a separate violation.

(D)(1) The owner or operator of a small agricultural operation or a medium agricultural operation may apply to the director for an exemption from the prohibition established in division (A) of section 939.08 of the Revised Code. If the director or the director's designee determines that it is appropriate, the director or the director's designee may issue such an exemption as follows:

(a) For a medium agricultural operation, for a period ending not later than one year after July 3, 2015;

(b) For a small agricultural operation, for a period ending not later than two years after July 3, 2015.

(2) The director shall establish the form of the application for an exemption in rules adopted under division (E) of this section.

(3) The director or the director's designee shall approve or deny an application for an exemption submitted under division (D)(1) of this section not later than thirty days after an application has been submitted.

(4) The director or the director's designee may deny an application for an exemption or revoke an exemption approved under division (D)(3) of this section if the director or the director's designee determines that the owner or operator is not in substantial compliance with this chapter and rules adopted under it other than violating division (A) of section 939.08 of the Revised Code.

(5) An owner or operator that has been issued an exemption under this section is not subject to civil penalties assessed for a violation of division (A) of section 939.08 of the Revised Code during the exemption period.

(6) An owner or operator that has an initial application for an exemption that is pending the director's review is not subject to civil penalties assessed for a violation of division (A) of section 939.08 of the Revised Code.

(E) The director shall adopt rules in accordance with Chapter 119. of the Revised Code that establish both of the following:

(1) The amount of the civil penalty assessed under this section. The civil penalty shall be not more than ten thousand dollars for each violation.

(2) Requirements governing the application form for an exemption submitted under division (D) of this section. The rules shall require the form to include all of the following:

(a) A statement from the applicant affirming that the applicant understands the provisions of sections 939.08 and 939.09 of the Revised Code;

(b) A statement from the applicant affirming that the applicant understands that the applicant must be in compliance with procedures established in the United States department of agriculture natural resources conservation service practice standard code 590 prepared for this state except procedures that are in conflict with this section and section 939.08 of the Revised Code;

(c) A place for the applicant to explain the reasons for the necessity for the exemption;

(d) A place on the form that provides information on programs that may assist an applicant with methods to comply with division (A) of section 939.08 of the Revised Code;

(e) A place on the form that provides the applicant an opportunity to request technical assistance or information from the director or the applicable soil and water conservation district to assist the applicant to comply with division (A) of section 939.08 of the Revised Code.

(F) Money collected from civil penalties assessed under this section shall be paid into the state treasury to the credit of the agricultural pollution abatement fund created in section 939.10 of the Revised Code.

(G) As used in this section:

(1) "Small agricultural operation" means an agricultural operation in the western basin that stables or confines fewer than any of the numbers of animals specified in divisions (Q)(1)(a) to (m) of section 903.01 of the Revised Code.

(2) "Medium agricultural operation" means an agricultural operation in the western basin that stables or confines any of the numbers of animals specified in divisions (Q)(1)(a) to (m) of section 903.01 of the Revised Code.

(3) "Western basin" has the same meaning as in section 905.326 of the Revised Code.

**Sec. 1513.07.** (A)(1) No operator shall conduct a coal mining operation without a permit for the operation issued by the chief of the division of mineral resources management.

(2) All permits issued pursuant to this chapter shall be issued for a term not to exceed five years, except that, if the applicant demonstrates that a specified longer term is reasonably needed to allow the applicant to obtain necessary financing for equipment and the opening of the operation and if the application is full and complete for the specified longer term, the chief may grant a permit for the longer term. A successor in interest to a permittee who applies for a new permit within thirty days after succeeding to the interest and who is able to obtain the performance security of the original permittee may continue coal mining and reclamation operations according to the approved mining and reclamation plan of the original permittee until the successor's application is granted or denied.

(3) A permit shall terminate if the permittee has not commenced the coal mining operations covered by the permit within three years after the issuance of the permit, except that the chief may grant reasonable extensions of the time upon a showing that the extensions are necessary by reason of litigation precluding the commencement or threatening substantial economic loss to the permittee or by reason of conditions beyond the control and without the fault or negligence of the permittee, and except that with respect to coal to be mined for use in a synthetic fuel facility or specified major electric generating facility, the permittee shall be deemed to have commenced coal mining operations at the time construction of the synthetic fuel or generating facility is initiated.

(4)(a) Any permit issued pursuant to this chapter shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the permit. The holders of the permit may apply for renewal and the renewal shall be issued unless the chief determines by written findings, subsequent to fulfillment of the public notice requirements of this section and section 1513.071 of the Revised Code through demonstrations by opponents of renewal or otherwise, that one or more of the following circumstances exists:

(i) The terms and conditions of the existing permit are not being satisfactorily met.

(ii) The present coal mining and reclamation operation is not in compliance with the environmental protection standards of this chapter.

(iii) The renewal requested substantially jeopardizes the operator's continuing responsibilities on existing permit areas.

(iv) The applicant has not provided evidence that the performance security in effect for the operation will continue in effect for any renewal requested in the application.

(v) Any additional, revised, or updated information required by the chief has not been provided. Prior to the approval of any renewal of a permit, the chief shall provide notice to the appropriate public authorities as prescribed by rule of the chief.

(b) If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit that addresses any new land areas shall be subject to the full standards applicable to new applications under this chapter.

(c) A permit renewal shall be for a term not to exceed the period of the original permit established by this chapter. Application for permit renewal shall be made at least one hundred twenty days prior to the expiration of the valid permit.

(5) A permit issued pursuant to this chapter does not eliminate the requirements for obtaining a permit to install or modify a disposal system or any part thereof or to discharge sewage, industrial waste, or other wastes into the waters of the state in accordance with Chapter 6111. of the Revised Code.

(B)(1) The permit application shall be submitted in a manner satisfactory to the chief and shall contain, among other things, all of the following:

(a) The names and addresses of all of the following:

(i) The permit applicant;

(ii) Every legal owner of record of the property, surface and mineral, to be mined;

(iii) The holders of record of any leasehold interest in the property;

(iv) Any purchaser of record of the property under a real estate contract;

- (v) The operator if different from the applicant;
- (vi) If any of these are business entities other than a single proprietor, the names and addresses of the principals, officers, and statutory agent for service of process.
- (b) The names and addresses of the owners of record of all surface and subsurface areas adjacent to any part of the permit area;
- (c) A statement of any current or previous coal mining permits in the United States held by the applicant, the permit identification, and any pending applications;
- (d) If the applicant is a partnership, corporation, association, or other business entity, the following where applicable: the names and addresses of every officer, partner, director, or person performing a function similar to a director, of the applicant, the name and address of any person owning, of record, ten per cent or more of any class of voting stock of the applicant, a list of all names under which the applicant, partner, or principal shareholder previously operated a coal mining operation within the United States within the five-year period preceding the date of submission of the application, and a list of the person or persons primarily responsible for ensuring that the applicant complies with the requirements of this chapter and rules adopted pursuant thereto while mining and reclaiming under the permit;
- (e) A statement of whether the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant, any partner if the applicant is a partnership, any officer, principal shareholder, or director if the applicant is a corporation, or any other person who has a right to control or in fact controls the management of the applicant or the selection of officers, directors, or managers of the applicant:
  - (i) Has ever held a federal or state coal mining permit that in the five-year period prior to the date of submission of the application has been suspended or revoked or has had a coal mining bond, performance security, or similar security deposited in lieu of bond forfeited and, if so, a brief explanation of the facts involved;
  - (ii) Has been an officer, partner, director, principal shareholder, or person having the right to control or has in fact controlled the management of or the selection of officers, directors, or managers of a business entity that has had a coal mining or surface mining permit that in the five-year period prior to the date of submission of the application has been suspended or revoked or has had a coal mining or surface mining bond, performance security, or similar security deposited in lieu of bond forfeited and, if so, a brief explanation of the facts involved.
- (f) A copy of the applicant's advertisement to be published in a newspaper of general circulation in the locality of the proposed site at least once a week for four successive weeks, which shall include the ownership of the proposed mine, a description of the exact location and boundaries of the proposed site sufficient to make the proposed operation readily identifiable by local residents, and the location where the application is available for public inspection;
- (g) A description of the type and method of coal mining operation that exists or is proposed, the engineering techniques proposed or used, and the equipment used or proposed to be used;
- (h) The anticipated or actual starting and termination dates of each phase of the mining operation and number of acres of land to be affected;
- (i) An accurate map or plan, to an appropriate scale, clearly showing the land to be affected, the land upon which the applicant has the legal right to enter and commence coal mining operations,

and the land for which the applicant will acquire the legal right to enter and commence coal mining operations during the term of the permit, copies of those documents upon which is based the applicant's legal right to enter and commence coal mining operations or a notarized statement describing the applicant's legal right to enter and commence coal mining operations, and a statement whether that right is the subject of pending litigation. This chapter does not authorize the chief to adjudicate property title disputes.

(j) The name of the watershed and location of the surface stream or tributary into which drainage from the operation will be discharged;

(k) A determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, providing information on the quantity and quality of water in surface and ground water systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the chief of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability, but this determination shall not be required until hydrologic information of the general area prior to mining is made available from an appropriate federal or state agency; however, the permit shall not be approved until the information is available and is incorporated into the application;

(l) When requested by the chief, the climatological factors that are peculiar to the locality of the land to be affected, including the average seasonal precipitation, the average direction and velocity of prevailing winds, and the seasonal temperature ranges;

(m) Accurate maps prepared by or under the direction of and certified by a qualified registered professional engineer, registered surveyor, or licensed landscape architect to an appropriate scale clearly showing all types of information set forth on topographical maps of the United States geological survey of a scale of not more than four hundred feet to the inch, including all artificial features and significant known archeological sites. The map, among other things specified by the chief, shall show all boundaries of the land to be affected, the boundary lines and names of present owners of record of all surface areas abutting the permit area, and the location of all buildings within one thousand feet of the permit area.

(n)(i) Cross-section maps or plans of the land to be affected including the actual area to be mined, prepared by or under the direction of and certified by a qualified registered professional engineer or certified professional geologist with assistance from experts in related fields such as hydrology, hydrogeology, geology, and landscape architecture, showing pertinent elevations and locations of test borings or core samplings and depicting the following information: the nature and depth of the various strata of overburden; the nature and thickness of any coal or rider seam above the coal seam to be mined; the nature of the stratum immediately beneath the coal seam to be mined; all mineral crop lines and the strike and dip of the coal to be mined within the area to be affected; existing or previous coal mining limits; the location and extent of known workings of any underground mines, including mine openings to the surface; the location of spoil, waste, or refuse areas and topsoil preservation areas; the location of all impoundments for waste or erosion control; any settling or water treatment facility; constructed or natural drainways and the location of any discharges to any surface body of water on the land to be affected or adjacent thereto; profiles at

appropriate cross sections of the anticipated final surface configuration that will be achieved pursuant to the operator's proposed reclamation plan; the location of subsurface water, if encountered; the location and quality of aquifers; and the estimated elevation of the water table. Registered surveyors shall be allowed to perform all plans, maps, and certifications under this chapter as they are authorized under Chapter 4733. of the Revised Code.

(ii) A statement of the quality and locations of subsurface water. The chief shall provide by rule the number of locations to be sampled, frequency of collection, and parameters to be analyzed to obtain the statement required.

(o) A statement of the results of test borings or core samplings from the permit area, including logs of the drill holes, the thickness of the coal seam found, an analysis of the chemical properties of the coal, the sulfur content of any coal seam, chemical analysis of potentially acid or toxic forming sections of the overburden, and chemical analysis of the stratum lying immediately underneath the coal to be mined, except that this division may be waived by the chief with respect to the specific application by a written determination that its requirements are unnecessary. If the test borings or core samplings from the permit area indicate the existence of potentially acid forming or toxic forming quantities of sulfur in the coal or overburden to be disturbed by mining, the application also shall include a statement of the acid generating potential and the acid neutralizing potential of the rock strata to be disturbed as calculated in accordance with the calculation method established under section 1513.075 of the Revised Code or with another calculation method.

(p) For those lands in the permit application that a reconnaissance inspection suggests may be prime farmlands, a soil survey shall be made or obtained according to standards established by the secretary of the United States department of agriculture in order to confirm the exact location of the prime farmlands, if any;

(q) A certificate issued by an insurance company authorized to do business in this state certifying that the applicant has a public liability insurance policy in force for the coal mining and reclamation operations for which the permit is sought or evidence that the applicant has satisfied other state self-insurance requirements. The policy shall provide for personal injury and property damage protection in an amount adequate to compensate any persons damaged as a result of coal mining and reclamation operations, including the use of explosives, and entitled to compensation under the applicable provisions of state law. The policy shall be maintained in effect during the term of the permit or any renewal, including the length of all reclamation operations. The insurance company shall give prompt notice to the permittee and the chief if the public liability insurance policy lapses for any reason including the nonpayment of insurance premiums. Upon the lapse of the policy, the chief may suspend the permit and all other outstanding permits until proper insurance coverage is obtained.

(r) The business telephone number of the applicant;

(s) If the applicant seeks an authorization under division (E)(7) of this section to conduct coal mining and reclamation operations on areas to be covered by the permit that were affected by coal mining operations before August 3, 1977, that have resulted in continuing water pollution from or on the previously mined areas, such additional information pertaining to those previously mined areas as may be required by the chief, including, without limitation, maps, plans, cross sections, data necessary to determine existing water quality from or on those areas with respect to pH, iron, and



manganese, and a pollution abatement plan that may improve water quality from or on those areas with respect to pH, iron, and manganese.

(2) Information pertaining to coal seams, test borings, core samplings, or soil samples as required by this section shall be made available by the chief to any person with an interest that is or may be adversely affected, except that information that pertains only to the analysis of the chemical and physical properties of the coal, excluding information regarding mineral or elemental content that is potentially toxic in the environment, shall be kept confidential and not made a matter of public record.

(3)(a) If the chief finds that the probable total annual production at all locations of any operator will not exceed three hundred thousand tons, the following activities, upon the written request of the operator in connection with a permit application, shall be performed by a qualified public or private laboratory or another public or private qualified entity designated by the chief, and the cost of the activities shall be assumed by the chief, provided that sufficient moneys for such assistance are available:

(i) The determination of probable hydrologic consequences required under division (B)(1)(k) of this section;

(ii) The development of cross-section maps and plans required under division (B)(1)(n)(i) of this section;

(iii) The geologic drilling and statement of results of test borings and core samplings required under division (B)(1)(o) of this section;

(iv) The collection of archaeological information required under division (B)(1)(m) of this section and any other archaeological and historical information required by the chief, and the preparation of plans necessitated thereby;

(v) Pre-blast surveys required under division (E) of section 1513.161 of the Revised Code;

(vi) The collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values required by the chief under this chapter.

(b) A coal operator that has received assistance under division (B)(3)(a) of this section shall reimburse the chief for the cost of the services rendered if the chief finds that the operator's actual and attributed annual production of coal for all locations exceeds three hundred thousand tons during the twelve months immediately following the date on which the operator was issued a coal mining and reclamation permit.

(4) Each applicant for a permit shall submit to the chief as part of the permit application a reclamation plan that meets the requirements of this chapter.

(5) Each applicant for a coal mining and reclamation permit shall file a copy of the application for a permit, excluding that information pertaining to the coal seam itself, for public inspection with the county recorder or an appropriate public office approved by the chief in the county where the mining is proposed to occur.

(6) Each applicant for a coal mining and reclamation permit shall submit to the chief as part of the permit application a blasting plan that describes the procedures and standards by which the operator will comply with section 1513.161 of the Revised Code.

(C) Each reclamation plan submitted as part of a permit application shall include, in the detail

necessary to demonstrate that reclamation required by this chapter can be accomplished and in the detail necessary for the chief to determine the estimated cost of reclamation if the reclamation has to be performed by the division of mineral resources management in the event of forfeiture of the performance security by the applicant, a statement of:

(1) The identification of the lands subject to coal mining operations over the estimated life of those operations and the size, sequence, and timing of the subareas for which it is anticipated that individual permits for mining will be sought;

(2) The condition of the land to be covered by the permit prior to any mining, including all of the following:

(a) The uses existing at the time of the application and, if the land has a history of previous mining, the uses that preceded any mining;

(b) The capability of the land prior to any mining to support a variety of uses, giving consideration to soil and foundation characteristics, topography, and vegetative cover and, if applicable, a soil survey prepared pursuant to division (B)(1)(p) of this section;

(c) The productivity of the land prior to mining, including appropriate classification as prime farmlands as well as the average yield of food, fiber, forage, or wood products obtained from the land under high levels of management.

(3) The use that is proposed to be made of the land following reclamation, including information regarding the utility and capacity of the reclaimed land to support a variety of alternative uses, the relationship of the proposed use to existing land use policies and plans, and the comments of any owner of the land and state and local governments or agencies thereof that would have to initiate, implement, approve, or authorize the proposed use of the land following reclamation;

(4) A detailed description of how the proposed postmining land use is to be achieved and the necessary support activities that may be needed to achieve the proposed land use;

(5) The engineering techniques proposed to be used in mining and reclamation and a description of the major equipment; a plan for the control of surface water drainage and of water accumulation; a plan, where appropriate, for backfilling, soil stabilization, and compacting, grading, and appropriate revegetation; a plan for soil reconstruction, replacement, and stabilization, pursuant to the performance standards in section 1513.16 of the Revised Code, for those food, forage, and forest lands identified in that section; and a statement as to how the permittee plans to comply with each of the requirements set out in section 1513.16 of the Revised Code;

(6) A description of the means by which the utilization and conservation of the solid fuel resource being recovered will be maximized so that re-affecting the land in the future can be minimized;

(7) A detailed estimated timetable for the accomplishment of each major step in the reclamation plan;

(8) A description of the degree to which the coal mining and reclamation operations are consistent with surface owner plans and applicable state and local land use plans and programs;

(9) The steps to be taken to comply with applicable air and water quality laws and regulations and any applicable health and safety standards;

(10) A description of the degree to which the reclamation plan is consistent with local physical, environmental, and climatological conditions;

(11) A description of all lands, interests in lands, or options on such interests held by the applicant or pending bids on interests in lands by the applicant, which lands are contiguous to the area to be covered by the permit;

(12) The results of test borings that the applicant has made at the area to be covered by the permit, or other equivalent information and data in a form satisfactory to the chief, including the location of subsurface water, and an analysis of the chemical properties, including acid forming properties of the mineral and overburden; except that information that pertains only to the analysis of the chemical and physical properties of the coal, excluding information regarding mineral or elemental contents that are potentially toxic in the environment, shall be kept confidential and not made a matter of public record;

(13) A detailed description of the measures to be taken during the mining and reclamation process to ensure the protection of all of the following:

(a) The quality of surface and ground water systems, both on- and off-site, from adverse effects of the mining and reclamation process;

(b) The rights of present users to such water;

(c) The quantity of surface and ground water systems, both on- and off-site, from adverse effects of the mining and reclamation process or, where such protection of quantity cannot be assured, provision of alternative sources of water.

(14) Any other requirements the chief prescribes by rule.

(D)(1) Any information required by division (C) of this section that is not on public file pursuant to this chapter shall be held in confidence by the chief.

(2) With regard to requests for an exemption from the requirements of this chapter for coal extraction incidental to the extraction of other minerals, as described in division (H)(1)(a) of section 1513.01 of the Revised Code, confidential information includes and is limited to information concerning trade secrets or privileged commercial or financial information relating to the competitive rights of the persons intending to conduct the extraction of minerals.

(E)(1) Upon the basis of a complete mining application and reclamation plan or a revision or renewal thereof, as required by this chapter, and information obtained as a result of public notification and public hearing, if any, as provided by section 1513.071 of the Revised Code, the chief shall grant, require modification of, or deny the application for a permit and notify the applicant in writing in accordance with division (I)(3) of this section. An application is deemed to be complete as submitted to the chief unless the chief, within fourteen days of the submission, identifies deficiencies in the application in writing and subsequently submits a copy of a written list of deficiencies to the applicant. An application shall not be considered incomplete or denied by reason of right of entry documentation, provided that the applicant documents the applicant's legal right to enter and mine at least sixty-seven per cent of the total area for which coal mining operations are proposed.

A decision of the chief denying a permit shall state in writing the specific reasons for the denial.

The applicant for a permit or revision of a permit has the burden of establishing that the application is in compliance with all the requirements of this chapter. Within ten days after the granting of a permit, the chief shall notify the boards of township trustees and county commissioners,

the mayor, and the legislative authority in the township, county, and municipal corporation in which the area of land to be affected is located that a permit has been issued and shall describe the location of the land. However, failure of the chief to notify the local officials shall not affect the status of the permit.

(2) No permit application or application for revision of an existing permit shall be approved unless the application affirmatively demonstrates and the chief finds in writing on the basis of the information set forth in the application or from information otherwise available, which shall be documented in the approval and made available to the applicant, all of the following:

(a) The application is accurate and complete and all the requirements of this chapter have been complied with.

(b) The applicant has demonstrated that the reclamation required by this chapter can be accomplished under the reclamation plan contained in the application.

(c)(i) Assessment of the probable cumulative impact of all anticipated mining in the general and adjacent area on the hydrologic balance specified in division (B)(1)(k) of this section has been made by the chief, and the proposed operation has been designed to prevent material damage to hydrologic balance outside the permit area.

(ii) There shall be an ongoing process conducted by the chief in cooperation with other state and federal agencies to review all assessments of probable cumulative impact of coal mining in light of post-mining data and any other hydrologic information as it becomes available to determine if the assessments were realistic. The chief shall take appropriate action as indicated in the review process.

(d) The area proposed to be mined is not included within an area designated unsuitable for coal mining pursuant to section 1513.073 of the Revised Code or is not within an area under study for such designation in an administrative proceeding commenced pursuant to division (A)(3)(c) or (B) of section 1513.073 of the Revised Code unless in an area as to which an administrative proceeding has commenced pursuant to division (A)(3)(c) or (B) of section 1513.073 of the Revised Code, the operator making the permit application demonstrates that, prior to January 1, 1977, the operator made substantial legal and financial commitments in relation to the operation for which a permit is sought.

(e) In cases where the private mineral estate has been severed from the private surface estate and surface disturbance will result from the applicant's proposed use of a strip mining method, the applicant has submitted to the chief one of the following:

(i) The written consent of the surface owner to the surface disturbance that will result from the extraction of coal by the applicant's proposed strip mining method;

(ii) A conveyance that expressly grants or reserves the right to extract the coal by strip mining methods that cause surface disturbance;

(iii) If the conveyance does not expressly grant the right to extract coal by strip mining methods that cause surface disturbance, the surface-subsurface legal relationship concerning surface disturbance shall be determined under the law of this state. This chapter does not authorize the chief to adjudicate property rights disputes.

(3)(a) The applicant shall file with the permit application a schedule listing all notices of violations of any law, rule, or regulation of the United States or of any department or agency thereof or of any state pertaining to air or water environmental protection incurred by the applicant in

connection with any coal mining operation during the three-year period prior to the date of application. The schedule also shall indicate the final resolution of such a notice of violation. Upon receipt of an application, the chief shall provide a schedule listing all notices of violations of this chapter pertaining to air or water environmental protection incurred by the applicant during the three-year period prior to receipt of the application and the final resolution of all such notices of violation. The chief shall provide this schedule to the applicant for filing by the applicant with the application filed for public review, as required by division (B)(5) of this section. When the schedule or other information available to the chief indicates that any coal mining operation owned or controlled by the applicant is currently in violation of such laws, the permit shall not be issued until the applicant submits proof that the violation has been corrected or is in the process of being corrected to the satisfaction of the regulatory authority, department, or agency that has jurisdiction over the violation and that any civil penalties owed to the state for a violation and not the subject of an appeal have been paid. No permit shall be issued to an applicant after a finding by the chief that the applicant or the operator specified in the application controls or has controlled mining operations with a demonstrated pattern of willful violations of this chapter of a nature and duration to result in irreparable damage to the environment as to indicate an intent not to comply with or a disregard of this chapter.

(b) For the purposes of division (E)(3)(a) of this section, any violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for re-mining under a permit held by the person submitting an application for a coal mining permit under this section shall not prevent issuance of that permit. As used in this division, "unanticipated event or condition" means an event or condition encountered in a re-mining operation that was not contemplated by the applicable surface coal mining and reclamation permit.

(4)(a) In addition to finding the application in compliance with division (E)(2) of this section, if the area proposed to be mined contains prime farmland as determined pursuant to division (B)(1)(p) of this section, the chief, after consultation with the secretary of the United States department of agriculture and pursuant to regulations issued by the secretary of the interior with the concurrence of the secretary of agriculture, may grant a permit to mine on prime farmland if the chief finds in writing that the operator has the technological capability to restore the mined area, within a reasonable time, to equivalent or higher levels of yield as nonmined prime farmland in the surrounding area under equivalent levels of management and can meet the soil reconstruction standards in section 1513.16 of the Revised Code.

(b) Division (E)(4)(a) of this section does not apply to a permit issued prior to August 3, 1977, or revisions or renewals thereof.

(5) The chief shall issue an order denying a permit after finding that the applicant has misrepresented or omitted any material fact in the application for the permit.

(6) The chief may issue an order denying a permit after finding that the applicant, any partner, if the applicant is a partnership, any officer, principal shareholder, or director, if the applicant is a corporation, or any other person who has a right to control or in fact controls the management of the applicant or the selection of officers, directors, or managers of the applicant has been a sole proprietor or partner, officer, director, principal shareholder, or person having the right to control or has in fact controlled the management of or the selection of officers, directors, or managers of a

business entity that ever has had a coal mining license or permit issued by this or any other state or the United States suspended or revoked, ever has forfeited a coal or surface mining bond, performance security, or similar security deposited in lieu of bond in this or any other state or with the United States, or ever has substantially or materially failed to comply with this chapter.

(7) When issuing a permit under this section, the chief may authorize an applicant to conduct coal mining and reclamation operations on areas to be covered by the permit that were affected by coal mining operations before August 3, 1977, that have resulted in continuing water pollution from or on the previously mined areas for the purpose of potentially reducing the pollution loadings of pH, iron, and manganese from discharges from or on the previously mined areas. Following the chief's authorization to conduct such operations on those areas, the areas shall be designated as pollution abatement areas for the purposes of this chapter.

The chief shall not grant an authorization under division (E)(7) of this section to conduct coal mining and reclamation operations on any such previously mined areas unless the applicant demonstrates to the chief's satisfaction that all of the following conditions are met:

(a) The applicant's pollution abatement plan for mining and reclaiming the previously mined areas represents the best available technology economically achievable.

(b) Implementation of the plan will potentially reduce pollutant loadings of pH, iron, and manganese resulting from discharges of surface waters or ground water from or on the previously mined areas within the permit area.

(c) Implementation of the plan will not cause any additional degradation of surface water quality off the permit area with respect to pH, iron, and manganese.

(d) Implementation of the plan will not cause any additional degradation of ground water.

(e) The plan meets the requirements governing mining and reclamation of such previously mined pollution abatement areas established by the chief in rules adopted under section 1513.02 of the Revised Code.

(f) Neither the applicant; any partner, if the applicant is a partnership; any officer, principal shareholder, or director, if the applicant is a corporation; any other person who has a right to control or in fact controls the management of the applicant or the selection of officers, directors, or managers of the applicant; nor any contractor or subcontractor of the applicant, has any of the following:

(i) Responsibility or liability under this chapter or rules adopted under it as an operator for treating the discharges of water pollutants from or on the previously mined areas for which the authorization is sought;

(ii) Any responsibility or liability under this chapter or rules adopted under it for reclaiming the previously mined areas for which the authorization is sought;

(iii) During the eighteen months prior to submitting the permit application requesting an authorization under division (E)(7) of this section, had a coal mining and reclamation permit suspended or revoked under division (D)(3) of section 1513.02 of the Revised Code for violating this chapter or Chapter 6111. of the Revised Code or rules adopted under them with respect to water quality, effluent limitations, or surface or ground water monitoring;

(iv) Ever forfeited a coal or surface mining bond, performance security, or similar security deposited in lieu of a bond in this or any other state or with the United States.

(8) In the case of the issuance of a permit that involves a conflict of results between various

methods of calculating potential acidity and neutralization potential for purposes of assessing the potential for acid mine drainage to occur at a mine site, the permit shall include provisions for monitoring and record keeping to identify the creation of unanticipated acid water at the mine site. If the monitoring detects the creation of acid water at the site, the permit shall impose on the permittee additional requirements regarding mining practices and site reclamation to prevent the discharge of acid mine drainage from the mine site. As used in division (E)(8) of this section, "potential acidity" and "neutralization potential" have the same meanings as in section 1513.075 of the Revised Code.

(F)(1) During the term of the permit, the permittee may submit an application for a revision of the permit, together with a revised reclamation plan, to the chief.

(2) An application for a revision of a permit shall not be approved unless the chief finds that reclamation required by this chapter can be accomplished under the revised reclamation plan. The revision shall be approved or disapproved within ninety days after receipt of a complete revision application. The chief shall establish, by rule, criteria for determining the extent to which all permit application information requirements and procedures, including notice and hearings, shall apply to the revision request, except that any revisions that propose significant alterations in the reclamation plan, at a minimum, shall be subject to notice and hearing requirements.

(3) Any extensions to the area covered by the permit except incidental boundary revisions shall be made by application for a permit.

(4) Documents or a notarized statement that form the basis of the applicant's legal right to enter and commence coal mining operations on land that is located within an area covered by the permit and that was legally acquired subsequent to the issuance of the permit for the area shall be submitted with an application for a revision of the permit.

(G) No transfer, assignment, or sale of the rights granted under a permit issued pursuant to this chapter shall be made without the written approval of the chief.

(H) The chief, within a time limit prescribed in the chief's rules, shall review outstanding permits and may require reasonable revision or modification of a permit. A revision or modification shall be based upon a written finding and subject to notice and hearing requirements established by rule of the chief.

(I)(1) If an informal conference has been held pursuant to section 1513.071 of the Revised Code, the chief shall issue and furnish the applicant for a permit, persons who participated in the informal conference, and persons who filed written objections pursuant to division (B) of section 1513.071 of the Revised Code, with the written finding of the chief granting or denying the permit in whole or in part and stating the reasons therefor within sixty days of the conference, provided that the chief shall comply with the time frames established in division (I)(3) of this section.

(2) If there has been no informal conference held pursuant to section 1513.071 of the Revised Code, the chief shall submit to the applicant for a permit the written finding of the chief granting or denying the permit in whole or in part and stating the reasons therefor within the time frames established in division (I)(3) of this section.

(3) The chief shall grant or deny a permit not later than two hundred forty days after the submission of a complete application for the permit. Any time during which the applicant is making revisions to an application or providing additional information requested by the chief regarding an application shall not be included in the two hundred forty days. If the chief determines that a permit

cannot be granted or denied within the two-hundred-forty-day time frame, the chief, not later than two hundred ten days after the submission of a complete application for the permit, shall provide the applicant with written notice of the expected delay.

(4) If the application is approved, the permit shall be issued. However, the permit shall prohibit the commencement of coal mining operations on any land that is located within an area covered by the permit if the permittee has not provided to the chief documents that form the basis of the permittee's legal right to enter and conduct coal mining operations on that land. If the application is disapproved, specific reasons therefor shall be set forth in the notification. Within thirty days after the applicant is notified of the final decision of the chief on the permit application, the applicant or any person with an interest that is or may be adversely affected may appeal the decision to the reclamation commission pursuant to section 1513.13 of the Revised Code.

(5) Any applicant or any person with an interest that is or may be adversely affected who has participated in the administrative proceedings as an objector and is aggrieved by the decision of the reclamation commission, or if the commission fails to act within the time limits specified in this chapter, may appeal in accordance with section 1513.14 of the Revised Code.

**Sec. 1513.16.** (A) Any permit issued under this chapter to conduct coal mining operations shall require that the operations meet all applicable performance standards of this chapter and such other requirements as the chief of the division of mineral resources management shall adopt by rule. General performance standards shall apply to all coal mining and reclamation operations and shall require the operator at a minimum to do all of the following:

(1) Conduct coal mining operations so as to maximize the utilization and conservation of the solid fuel resource being recovered so that re-affecting the land in the future through coal mining can be minimized;

(2) Restore the land affected to a condition capable of supporting the uses that it was capable of supporting prior to any mining, or higher or better uses of which there is reasonable likelihood, so long as the uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of diminution or pollution of the waters of the state, and the permit applicants' declared proposed land uses following reclamation are not considered to be impractical or unreasonable, to be inconsistent with applicable land use policies and plans, to involve unreasonable delay in implementation, or to violate federal, state, or local law;

(3) Except as provided in division (B) of this section, with respect to all coal mining operations, backfill, compact where advisable to ensure stability or to prevent leaching of toxic materials, and grade in order to restore the approximate original contour of the land with all highwalls, spoil piles, and depressions eliminated unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authorized pursuant to this chapter, provided that if the operator demonstrates that due to volumetric expansion the amount of overburden and the spoil and waste materials removed in the course of the mining operation are more than sufficient to restore the approximate original contour, the operator shall backfill, grade, and compact the excess overburden and other spoil and waste materials to attain the lowest grade, but not more than the angle of repose, and to cover all acid-forming and other toxic materials in order to achieve an ecologically sound land use compatible with the surrounding region in accordance with the approved mining plan. The overburden or spoil shall be shaped and graded in such a way as to prevent slides, erosion, and



water pollution and shall be revegetated in accordance with this chapter.

(4) Stabilize and protect all surface areas, including spoil piles affected by the coal mining and reclamation operation, to control erosion and attendant air and water pollution effectively;

(5) Remove the topsoil from the land in a separate layer, replace it on the backfill area, or, if not utilized immediately, segregate it in a separate pile from the spoil, and when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick-growing plants or other means thereafter so that the topsoil is preserved from wind and water erosion, remains free of any contamination by acid or other toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation. If the topsoil is of insufficient quantity or of poor quality for sustaining vegetation or if other strata can be shown to be more suitable for vegetation requirements, the operator shall remove, segregate, and preserve in a like manner such other strata as are best able to support vegetation.

(6) Restore the topsoil or the best available subsoil that is best able to support vegetation;

(7) For all prime farmlands as identified in division (B)(1)(p) of section 1513.07 of the Revised Code to be mined and reclaimed, perform soil removal, storage, replacement, and reconstruction in accordance with specifications established by the secretary of the United States department of agriculture under the "Surface Mining Control and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C.A. 1201. The operator, at a minimum, shall be required to do all of the following:

(a) Segregate the A horizon of the natural soil, except where it can be shown that other available soil materials will create a final soil having a greater productive capacity, and, if not utilized immediately, stockpile this material separately from the spoil and provide needed protection from wind and water erosion or contamination by acid or other toxic material;

(b) Segregate the B horizon of the natural soil, or underlying C horizons or other strata, or a combination of such horizons or other strata that are shown to be both texturally and chemically suitable for plant growth and that can be shown to be equally or more favorable for plant growth than the B horizon, in sufficient quantities to create in the regraded final soil a root zone of comparable depth and quality to that which existed in the natural soil, and, if not utilized immediately, stockpile this material separately from the spoil and provide needed protection from wind and water erosion or contamination by acid or other toxic material;

(c) Replace and regrade the root zone material described in division (A)(7)(b) of this section with proper compaction and uniform depth over the regraded spoil material;

(d) Redistribute and grade in a uniform manner the surface soil horizon described in division (A)(7)(a) of this section.

(8) Create, if authorized in the approved mining and reclamation plan and permit, permanent impoundments of water on mining sites as part of reclamation activities only when it is adequately demonstrated by the operator that all of the following conditions will be met:

(a) The size of the impoundment is adequate for its intended purposes.

(b) The impoundment dam construction will be so designed as to achieve necessary stability with an adequate margin of safety compatible with that of structures constructed under the "Watershed Protection and Flood Prevention Act," 68 Stat. 666 (1954), 16 U.S.C. 1001, as amended.

(c) The quality of impounded water will be suitable on a permanent basis for its intended use and discharges from the impoundment will not degrade the water quality below water quality

standards established pursuant to applicable federal and state law in the receiving stream.

(d) The level of water will be reasonably stable.

(e) Final grading will provide adequate safety and access for proposed water users.

(f) The water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses.

(9) Conduct any augering operation associated with strip mining in a manner to maximize recoverability of mineral reserves remaining after the operation and reclamation are complete and seal all auger holes with an impervious and noncombustible material in order to prevent drainage, except where the chief determines that the resulting impoundment of water in such auger holes may create a hazard to the environment or the public health or safety. The chief may prohibit augering if necessary to maximize the utilization, recoverability, or conservation of the solid fuel resources or to protect against adverse water quality impacts.

(10) Minimize the disturbances to the prevailing hydrologic balance at the mine site and in associated offsite areas and to the quality and quantity of water in surface and ground water systems both during and after coal mining operations and during reclamation by doing all of the following:

(a) Avoiding acid or other toxic mine drainage by such measures as, but not limited to:

(i) Preventing or removing water from contact with toxic producing deposits;

(ii) Treating drainage to reduce toxic content that adversely affects downstream water upon being released to water courses in accordance with rules adopted by the chief in accordance with section 1513.02 of the Revised Code;

(iii) Casing, sealing, or otherwise managing boreholes, shafts, and wells, and keeping acid or other toxic drainage from entering ground and surface waters.

(b)(i) Conducting coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area, but in no event shall contributions be in excess of requirements set by applicable state or federal laws;

(ii) Constructing any siltation structures pursuant to division (A)(10)(b)(i) of this section prior to commencement of coal mining operations. The structures shall be certified by persons approved by the chief to be constructed as designed and as approved in the reclamation plan.

(c) Cleaning out and removing temporary or large settling ponds or other siltation structures from drainways after disturbed areas are revegetated and stabilized, and depositing the silt and debris at a site and in a manner approved by the chief;

(d) Restoring recharge capacity of the mined area to approximate premining conditions;

(e) Avoiding channel deepening or enlargement in operations requiring the discharge of water from mines;

(f) Such other actions as the chief may prescribe.

(11) With respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine working areas or excavations, stabilize all waste piles in designated areas through construction in compacted layers, including the use of noncombustible and impervious materials if necessary, and ensure that the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated

according to this chapter;

(12) Refrain from coal mining within five hundred feet of active and abandoned underground mines in order to prevent breakthroughs and to protect the health or safety of miners. The chief shall permit an operator to mine near, through, or partially through an abandoned underground mine or closer than five hundred feet to an active underground mine if both of the following conditions are met:

(a) The nature, timing, and sequencing of the approximate coincidence of specific strip mine activities with specific underground mine activities are approved by the chief.

(b) The operations will result in improved resource recovery, abatement of water pollution, or elimination of hazards to the health and safety of the public.

(13) Design, locate, construct, operate, maintain, enlarge, modify, and remove or abandon, in accordance with the standards and criteria developed pursuant to rules adopted by the chief, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes, and used either temporarily or permanently as dams or embankments;

(14) Ensure that all debris, acid-forming materials, toxic materials, or materials constituting a fire hazard are treated or buried and compacted or otherwise disposed of in a manner designed to prevent contamination of ground or surface waters and that contingency plans are developed to prevent sustained combustion;

(15) Ensure that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable with the coal mining operations, except that where the applicant proposes to combine strip mining operations with underground mining operations to ensure maximum practical recovery of the mineral resources, the chief may grant a variance for specific areas within the reclamation plan from the requirement that reclamation efforts proceed as contemporaneously as practicable to permit underground mining operations prior to reclamation if:

(a) The chief finds in writing that:

(i) The applicant has presented, as part of the permit application, specific, feasible plans for the proposed underground mining operations.

(ii) The proposed underground mining operations are necessary or desirable to ensure maximum practical recovery of the mineral resource and will avoid multiple disturbance of the surface.

(iii) The applicant has satisfactorily demonstrated that the plan for the underground mining operations conforms to requirements for underground mining in this state and that permits necessary for the underground mining operations have been issued by the appropriate authority.

(iv) The areas proposed for the variance have been shown by the applicant to be necessary for the implementing of the proposed underground mining operations.

(v) No substantial adverse environmental damage, either on-site or off-site, will result from the delay in completion of reclamation as required by this chapter.

(vi) Provisions for the off-site storage of spoil will comply with division (A)(21) of this section.

(b) The chief has adopted specific rules to govern the granting of such variances in accordance with this division and has imposed such additional requirements as the chief considers necessary.

(c) Variances granted under this division shall be reviewed by the chief not more than three years from the date of issuance of the permit.

(d) Liability under the performance security filed by the applicant with the chief pursuant to section 1513.08 of the Revised Code shall be for the duration of the underground mining operations and until the requirements of this section and section 1513.08 of the Revised Code have been fully complied with.

(16) Ensure that the construction, maintenance, and postmining conditions of access roads into and across the site of operations will control or prevent erosion and siltation, pollution of water, and damage to fish or wildlife or their habitat, or to public or private property;

(17) Refrain from the construction of roads or other access ways up a stream bed or drainage channel or in such proximity to the channel as to seriously alter the normal flow of water;

(18) Establish, on the regraded areas and all other lands affected, a diverse, effective, and permanent vegetative cover of the same seasonal variety native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area, except that introduced species may be used in the revegetation process where desirable and necessary to achieve the approved postmining land use plan;

(19)(a) Assume the responsibility for successful revegetation, as required by division (A)(18) of this section, for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to ensure compliance with that division, except that when the chief approves a long-term intensive agricultural postmining land use, the applicable five-year period of responsibility for revegetation shall commence at the date of initial planting for that long-term intensive agricultural postmining land use, and except that when the chief issues a written finding approving a long-term intensive agricultural postmining land use as part of the mining and reclamation plan, the chief may grant an exception to division (A)(18) of this section;

(b) On lands eligible for remining, assume the responsibility for successful revegetation, as required by division (A)(18) of this section, for a period of two full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to ensure compliance with that division.

(20) Protect off-site areas from slides or damage occurring during the coal mining and reclamation operations and not deposit spoil material or locate any part of the operations or waste accumulations outside the permit area;

(21) Place all excess spoil material resulting from coal mining and reclamation operations in such a manner that all of the following apply:

(a) Spoil is transported and placed in a controlled manner in position for concurrent compaction and in such a way as to ensure mass stability and to prevent mass movement.

(b) The areas of disposal are within the permit areas for which performance security has been provided. All organic matter shall be removed immediately prior to spoil placement except in the zoned concept method.

(c) Appropriate surface and internal drainage systems and diversion ditches are used so as to prevent spoil erosion and mass movement.

(d) The disposal area does not contain springs, natural watercourses, or wet weather seeps unless lateral drains are constructed from the wet areas to the main underdrains in such a manner that

filtration of the water into the spoil pile will be prevented unless the zoned concept method is used.

(e) If placed on a slope, the spoil is placed upon the most moderate slope among those slopes upon which, in the judgment of the chief, the spoil could be placed in compliance with all the requirements of this chapter and is placed, where possible, upon, or above, a natural terrace, bench, or berm if that placement provides additional stability and prevents mass movement.

(f) Where the toe of the spoil rests on a downslope, a rock toe buttress of sufficient size to prevent mass movement is constructed.

(g) The final configuration is compatible with the natural drainage pattern and surroundings and suitable for intended uses.

(h) Design of the spoil disposal area is certified by a qualified registered professional engineer in conformance with professional standards.

(i) All other provisions of this chapter are met.

(22) Meet such other criteria as are necessary to achieve reclamation in accordance with the purpose of this chapter, taking into consideration the physical, climatological, and other characteristics of the site;

(23) To the extent possible, using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable;

(24) Provide for an undisturbed natural barrier beginning at the elevation of the lowest coal seam to be mined and extending from the outslope for such distance as the chief shall determine to be retained in place as a barrier to slides and erosion;

(25) Restore on the permit area streams and wetlands affected by mining operations unless the chief approves restoration off the permit area without a permit required by section 1513.07 or 1513.074 of the Revised Code, instead of restoration on the permit area, of a stream or wetland or a portion of a stream or wetland, provided that the chief first makes all of the following written determinations:

(a) A hydrologic and engineering assessment of the affected lands, submitted by the operator, demonstrates that restoration on the permit area is not possible.

(b) The proposed mitigation plan under which mitigation activities described in division (A) (25)(c) of this section will be conducted is limited to a stream or wetland, or a portion of a stream or wetland, for which restoration on the permit area is not possible.

(c) Mitigation activities off the permit area, including mitigation banking and payment of in-lieu mitigation fees, will be performed pursuant to a permit issued under sections 401 and 404 of the "Federal Water Pollution Control Act" as defined in section 6111.01 of the Revised Code or an isolated wetland permit issued under Chapter 6111. of the Revised Code or pursuant to a no-cost reclamation contract for the restoration of water resources affected by past mining activities pursuant to section 1513.37 of the Revised Code.

(d) The proposed mitigation plan and mitigation activities comply with the standards established in this section.

If the chief approves restoration off the permit area in accordance with this division, the operator shall complete all mitigation construction or other activities required by the mitigation plan.

Performance security for reclamation activities on the permit area shall be released pursuant

to division (F) of this section, except that the release of the remaining portion of performance security under division (F)(3)(c) of this section shall not be approved prior to the construction of required mitigation activities off the permit area.

(B)(1) The chief may permit mining operations for the purposes set forth in division (B)(3) of this section.

(2) When an applicant meets the requirements of divisions (B)(3) and (4) of this section, a permit without regard to the requirement to restore to approximate original contour known as mountain top removal set forth in divisions (A)(3) or (C)(2) and (3) of this section may be granted for the mining of coal where the mining operation will remove an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill, except as provided in division (B)(4)(a) of this section, by removing all of the overburden and creating a level plateau or a gently rolling contour with no highwalls remaining, and capable of supporting postmining uses in accordance with this division.

(3) In cases where an industrial, commercial, agricultural, residential, or public facility use, including recreational facilities, is proposed for the postmining use of the affected land, the chief may grant a permit for a mining operation of the nature described in division (B)(2) of this section when all of the following apply:

(a) After consultation with the appropriate land use planning agencies, if any, the proposed postmining land use is considered to constitute an equal or better economic or public use of the affected land, as compared with premining use.

(b) The applicant presents specific plans for the proposed postmining land use and appropriate assurances that the use will be all of the following:

- (i) Compatible with adjacent land uses;
- (ii) Obtainable according to data regarding expected need and market;
- (iii) Assured of investment in necessary public facilities;
- (iv) Supported by commitments from public agencies where appropriate;
- (v) Practicable with respect to private financial capability for completion of the proposed use;
- (vi) Planned pursuant to a schedule attached to the reclamation plan so as to integrate the mining operation and reclamation with the postmining land use;
- (vii) Designed by a registered engineer in conformity with professional standards established to ensure the stability, drainage, and configuration necessary for the intended use of the site.

(c) The proposed use is consistent with adjacent land uses and existing state and local land use plans and programs.

(d) The chief provides the governing body of the unit of general-purpose local government in which the land is located, and any state or federal agency that the chief, in the chief's discretion, determines to have an interest in the proposed use, an opportunity of not more than sixty days to review and comment on the proposed use.

(e) All other requirements of this chapter will be met.

(4) In granting a permit pursuant to this division, the chief shall require that each of the following is met:

(a) The toe of the lowest coal seam and the overburden associated with it are retained in place as a barrier to slides and erosion.

(b) The reclaimed area is stable.

(c) The resulting plateau or rolling contour drains inward from the out slopes except at specified points.

(d) No damage will be done to natural watercourses.

(e) Spoil will be placed on the mountaintop bench as is necessary to achieve the planned postmining land use, except that all excess spoil material not retained on the mountaintop bench shall be placed in accordance with division (A)(21) of this section.

(f) Stability of the spoil retained on the mountaintop bench is ensured and the other requirements of this chapter are met.

(5) The chief shall adopt specific rules to govern the granting of permits in accordance with divisions (B)(1) to (4) of this section and may impose such additional requirements as the chief considers necessary.

(6) All permits granted under divisions (B)(1) to (4) of this section shall be reviewed not more than three years from the date of issuance of the permit unless the applicant affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the approved schedule and reclamation plan.

(C) All of the following performance standards apply to steep-slope coal mining and are in addition to those general performance standards required by this section, except that this division does not apply to those situations in which an operator is mining on flat or gently rolling terrain on which an occasional steep slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area, or where an operator is in compliance with division (B) of this section:

(1) The operator shall ensure that when performing coal mining on steep slopes, no debris, abandoned or disabled equipment, spoil material, or waste mineral matter is placed on the downslope below the bench or mining cut. Spoil material in excess of that required for the reconstruction of the approximate original contour under division (A)(3) or (C)(2) of this section shall be permanently stored pursuant to division (A)(21) of this section.

(2) The operator shall complete backfilling with spoil material to cover completely the highwall and return the site to the approximate original contour, which material will maintain stability following mining and reclamation.

(3) The operator shall not disturb land above the top of the highwall unless the chief finds that the disturbance will facilitate compliance with the environmental protection standards of this section, except that any such disturbance involving land above the highwall shall be limited to that amount of land necessary to facilitate compliance.

(D)(1) The chief may permit variances for the purposes set forth in division (D)(3) of this section, provided that the watershed control of the area is improved and that complete backfilling with spoil material shall be required to cover completely the highwall, which material will maintain stability following mining and reclamation.

(2) Where an applicant meets the requirements of divisions (D)(3) and (4) of this section, a variance from the requirement to restore to approximate original contour set forth in division (C)(2) of this section may be granted for the mining of coal when the owner of the surface knowingly requests in writing, as a part of the permit application, that such a variance be granted so as to render

the land, after reclamation, suitable for an industrial, commercial, residential, or public use, including recreational facilities, in accordance with divisions (D)(3) and (4) of this section.

(3) A variance pursuant to division (D)(2) of this section may be granted if:

(a) After consultation with the appropriate land use planning agencies, if any, the potential use of the affected land is considered to constitute an equal or better economic or public use.

(b) The postmining land condition is designed and certified by a registered professional engineer in conformity with professional standards established to ensure the stability, drainage, and configuration necessary for the intended use of the site.

(c) After approval of the appropriate state environmental agencies, the watershed of the affected land is considered to be improved.

(4) In granting a variance pursuant to division (D) of this section, the chief shall require that only such amount of spoil will be placed off the mine bench as is necessary to achieve the planned postmining land use, ensure stability of the spoil retained on the bench, and meet all other requirements of this chapter. All spoil placement off the mine bench shall comply with division (A) (21) of this section.

(5) The chief shall adopt specific rules to govern the granting of variances under division (D) of this section and may impose such additional requirements as the chief considers necessary.

(6) All variances granted under division (D) of this section shall be reviewed not more than three years from the date of issuance of the permit unless the permittee affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the reclamation plan.

(E) The chief shall establish standards and criteria regulating the design, location, construction, operation, maintenance, enlargement, modification, removal, and abandonment of new and existing coal mine waste piles referred to in division (A)(13) of this section and division (A)(5) of section 1513.35 of the Revised Code. The standards and criteria shall conform to the standards and criteria used by the chief of the United States army corps of engineers to ensure that flood control structures are safe and effectively perform their intended function. In addition to engineering and other technical specifications, the standards and criteria developed pursuant to this division shall include provisions for review and approval of plans and specifications prior to construction, enlargement, modification, removal, or abandonment; performance of periodic inspections during construction; issuance of certificates of approval upon completion of construction; performance of periodic safety inspections; and issuance of notices for required remedial or maintenance work.

(F)(1) The permittee may file a request with the chief for release of a part of a performance security under division (F)(3) of this section. Within thirty days after any request for performance security release under this section has been filed with the chief, the operator shall submit a copy of an advertisement placed at least once a week for four successive weeks in a newspaper of general circulation in the locality of the coal mining operation. The advertisement shall be considered part of any performance security release application and shall contain a notification of the precise location of the land affected, the number of acres, the permit number and the date approved, the amount of the performance security filed and the portion sought to be released, the type and appropriate dates of reclamation work performed, and a description of the results achieved as they relate to the operator's approved reclamation plan and, if applicable, the operator's pollution abatement plan. In addition, as part of any performance security release application, the applicant shall submit copies of the letters



sent to adjoining property owners, local governmental bodies, planning agencies, and sewage and water treatment authorities or water companies in the locality in which the coal mining and reclamation activities took place, notifying them of the applicant's intention to seek release from the performance security.

(2) Upon receipt of a copy of the advertisement and request for release of a performance security under division (F)(3)(c) of this section, the chief, within thirty days, shall conduct an inspection and evaluation of the reclamation work involved. The evaluation shall consider, among other things, the degree of difficulty to complete any remaining reclamation, whether pollution of surface and subsurface water is occurring, the probability of continuation or future occurrence of the pollution, and the estimated cost of abating the pollution. The chief shall notify the permittee in writing of the decision to release or not to release all or part of the performance security within sixty days after the filing of the request if no public hearing is held pursuant to division (F)(6) of this section or, if there has been a public hearing held pursuant to division (F)(6) of this section, within thirty days thereafter.

(3) The chief may release the performance security if the reclamation covered by the performance security or portion thereof has been accomplished as required by this chapter and rules adopted under it according to the following schedule:

(a) When the operator completes the backfilling, regrading, and drainage control of an area for which performance security has been provided in accordance with the approved reclamation plan, and, if the area covered by the performance security is one for which an authorization was made under division (E)(7) of section 1513.07 of the Revised Code, the operator has complied with the approved pollution abatement plan and all additional requirements established by the chief in rules adopted under section 1513.02 of the Revised Code governing coal mining and reclamation operations on pollution abatement areas, the chief shall grant a release of fifty per cent of the performance security for the applicable permit area.

(b) After resoiling and revegetation have been established on the regraded mined lands in accordance with the approved reclamation plan, the chief shall grant a release in an amount not exceeding thirty-five per cent of the original performance security for all or part of the affected area under the permit. When determining the amount of performance security to be released after successful revegetation has been established, the chief shall retain that amount of performance security for the revegetated area that would be sufficient for a third party to cover the cost of reestablishing revegetation for the period specified for operator responsibility in this section for reestablishing revegetation. No part of the performance security shall be released under this division so long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements of this section or until soil productivity for prime farmlands has returned to equivalent levels of yield as nonmined land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey performed pursuant to section 1513.07 of the Revised Code. If the area covered by the performance security is one for which an authorization was made under division (E)(7) of section 1513.07 of the Revised Code, no part of the performance security shall be released under this division until the operator has complied with the approved pollution abatement plan and all additional requirements established by the chief in rules adopted under section 1513.02 of the

Revised Code governing coal mining and reclamation operations on pollution abatement areas. Where a silt dam is to be retained as a permanent impoundment pursuant to division (A)(10) of this section, the portion of performance security may be released under this division so long as provisions for sound future maintenance by the operator or the landowner have been made with the chief.

(c) When the operator has completed successfully all coal mining and reclamation activities, including, if applicable, all additional requirements established in the pollution abatement plan approved under division (E)(7) of section 1513.07 of the Revised Code and all additional requirements established by the chief in rules adopted under section 1513.02 of the Revised Code governing coal mining and reclamation operations on pollution abatement areas, the chief shall release all or any of the remaining portion of the performance security for all or part of the affected area under a permit, but not before the expiration of the period specified for operator responsibility in this section, except that the chief may adopt rules for a variance to the operator period of responsibility considering vegetation success and probability of continued growth and consent of the landowner, provided that no performance security shall be fully released until all reclamation requirements of this chapter are fully met.

(4) If the chief disapproves the application for release of the performance security or portion thereof, the chief shall notify the permittee, in writing, stating the reasons for disapproval and recommending corrective actions necessary to secure the release, and allowing the opportunity for a public adjudicatory hearing.

(5) When any application for total or partial performance security release is filed with the chief under this section, the chief shall notify the municipal corporation in which the coal mining operation is located by certified mail at least thirty days prior to the release of all or a portion of the performance security.

(6) A person with a valid legal interest that might be adversely affected by release of a performance security under this section or the responsible officer or head of any federal, state, or local government agency that has jurisdiction by law or special expertise with respect to any environmental, social, or economic impact involved in the operation or is authorized to develop and enforce environmental standards with respect to such operations may file written objections to the proposed release from the performance security with the chief within thirty days after the last publication of the notice required by division (F)(1) of this section. If written objections are filed and an informal conference is requested, the chief shall inform all interested parties of the time and place of the conference. The date, time, and location of the informal conference shall be advertised by the chief in a newspaper of general circulation in the locality of the coal mining operation proposed for performance security release for at least once a week for two consecutive weeks. The informal conference shall be held in the locality of the coal mining operation proposed for performance security release or in Franklin county, at the option of the objector, within thirty days after the request for the conference. An electronic or stenographic record shall be made of the conference proceeding unless waived by all parties. The record shall be maintained and shall be accessible to the parties until final release of the performance security at issue. In the event all parties requesting the informal conference stipulate agreement prior to the requested informal conference and withdraw their request, the informal conference need not be held.

(7) If an informal conference has been held pursuant to division (F)(6) of this section, the

chief shall issue and furnish the applicant and persons who participated in the conference with the written decision regarding the release within sixty days after the conference. Within thirty days after notification of the final decision of the chief regarding the performance security release, the applicant or any person with an interest that is or may be adversely affected by the decision may appeal the decision to the reclamation commission pursuant to section 1513.13 of the Revised Code.

(8)(a) If the chief determines that a permittee is responsible for mine drainage that requires water treatment after reclamation is completed under the terms of the permit or that a permittee must provide an alternative water supply after reclamation is completed under the terms of the permit, the permittee shall provide alternative financial security in an amount determined by the chief prior to the release of the remaining portion of performance security under division (F)(3)(c) of this section. The alternative financial security shall be in an amount that is equal to or greater than the present value of the estimated cost over time to develop and implement mine drainage plans and provide water treatment or in an amount that is necessary to provide and maintain an alternative water supply, as applicable. The alternative financial security shall include a contract, trust, or other agreement or mechanism that is enforceable under law to provide long-term water treatment or a long-term alternative water supply, or both. The contract, trust, or other agreement or mechanism included with the alternative financial security may provide for the funding of the alternative financial security incrementally over a period of time, not to exceed five years, with reliance on guarantees or other collateral provided by the permittee and approved by the chief for the balance of the alternative financial security required until the alternative financial security has been fully funded by the permittee.

(b) The chief shall adopt rules in accordance with Chapter 119. of the Revised Code that are necessary for the administration of division (F)(8)(a) of this section.

(c) If the chief determines that a permittee must provide alternative financial security under division (F)(8)(a) of this section and the performance security for the permit was provided under division (C)(2) of section 1513.08 of the Revised Code, the permittee may fund the alternative financial security incrementally over a period of time, not to exceed five years, with reliance on the reclamation forfeiture fund created in section 1513.18 of the Revised Code for the balance of the alternative financial security required until the alternative financial security has been fully funded by the permittee. The permittee semiannually shall pay to the division of mineral resources management a fee that is equal to seven and one-half per cent of the average balance of the alternative financial security that is being provided by reliance on the reclamation forfeiture fund over the previous six months. All money received from the fee shall be credited to the reclamation forfeiture fund.

(9) Final release of the performance security in accordance with division (F)(3)(c) of this section terminates the jurisdiction of the chief under this chapter over the reclaimed site of a surface coal mining and reclamation operation or applicable portion of an operation. However, the chief shall reassert jurisdiction over such a site if the release was based on fraud, collusion, or misrepresentation of a material fact and the chief, in writing, demonstrates evidence of the fraud, collusion, or misrepresentation. Any person with an interest that is or may be adversely affected by the chief's determination may appeal the determination to the reclamation commission in accordance with section 1513.13 of the Revised Code.

(G) The chief shall adopt rules governing the criteria for forfeiture of performance security,

the method of determining the forfeited amount, and the procedures to be followed in the event of forfeiture. Cash received as the result of such forfeiture is the property of the state.

**Sec. 1514.06.** (A) All money that becomes the property of the state pursuant to sections 1514.05 and 1514.051 of the Revised Code, money collected under divisions (C)(1) and (2) of section 1514.071, and other money specified in section 1514.11 of the Revised Code shall be credited to the mining regulation and safety fund created in section 1513.30 of the Revised Code. The chief of the division of mineral resources management may expend such money for the purpose of reclaiming areas of land affected by surface or in-stream mining under a permit issued under this chapter that the operator has failed to reclaim.

(B) Expenditures of money from the fund for the purposes specified in division (A) of this section, except as otherwise provided by this section, shall be made pursuant to contracts entered into by the chief with persons who agree to furnish all of the materials, equipment, work, and labor, as specified and provided in the contracts, for the prices stipulated therein. With the approval of the director of natural resources, the chief may reclaim the land in the same manner as the chief required of the operator who failed to reclaim the land. Each contract awarded by the chief shall be awarded to the lowest responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, after sealed bids are received, opened, and published at the time and place fixed by the chief. The chief shall publish notice of the time and place at which bids will be received, opened, and published, at least once at least ten days before the date of the opening of the bids, in a newspaper of general circulation in the county in which the area of land to be reclaimed under the contract is located. If, after so advertising for bids, no bids are received by the chief at the time and place fixed for receiving them, the chief may advertise again for bids, or, if the chief considers the public interest will be best served, the chief may enter into a contract for the reclamation of the area of land without further advertisement for bids. The chief may reject any or all bids received and again publish notice of the time and place at which bids for contracts will be received, opened, and published.

(C) With the approval of the director, the chief, without advertising for bids, may enter into a contract with the landowner, a surface or in-stream mine operator or coal mine operator mining under a current, valid permit issued under this chapter or Chapter 1513. of the Revised Code, or a contractor hired by a surety to complete reclamation, to carry out reclamation on land affected by surface or in-stream mining operations that an operator has failed to reclaim.

(D) With the approval of the director, the chief may carry out all or part of the reclamation work on land affected by surface or in-stream mining operations that the operator has failed to reclaim using the employees and equipment of any division of the department of natural resources.

(E) The chief shall require every contractor performing reclamation work under this section to pay workers at the greater of their regular rate of pay, as established by contract, agreement, or prior custom or practice, or the average wage rate paid in this state for the same or similar work, as determined by the chief under section 1513.02 of the Revised Code.

(F) Each contract entered into by the chief under this section shall provide only for the reclamation of land affected by the surface or in-stream mining operation or operations of one operator and not reclaimed by the operator as required by this chapter. If there is money in the fund derived from the performance bond deposited with the chief by one operator to ensure the reclamation of two or more areas of land affected by the surface or in-stream mining operation or

operations of one operator and not reclaimed by the operator as required by this chapter, the chief may award a single contract for the reclamation of all such areas of land.

(G) The cost of the reclamation work done under this section on each area of land affected by surface or in-stream mining operations that an operator has failed to reclaim shall be paid out of the money in the fund derived from the performance bond that was deposited with the chief to ensure the reclamation of that area of land. The operator is liable for that expense in addition to any other liabilities imposed by law. At the request of the chief, the attorney general shall bring an action against the operator for the amount of the expenditures from the mining regulation and safety fund. Money so recovered shall be deposited in the state treasury to the credit of that fund.

**Sec. 1514.08.** (A) The chief of the division of mineral resources management may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code in order to prescribe procedures for submitting applications for permits, amendments to permits, and amendments to plans of mining and reclamation; filing annual reports and final reports; requesting inspection and approval of reclamation; paying permit and filing fees; and filing and obtaining the release of performance bonds deposited with the state. For the purpose of preventing damage to adjoining property or achieving one or more of the performance standards established in division (A)(10) of section 1514.02 of the Revised Code, the chief may establish classes of mining industries, based upon industrial categories, combinations of minerals produced, and geological conditions in which surface or in-stream mining operations occur, and may prescribe different rules consistent with the performance standards for each class. For the purpose of apportioning the workload of the division of mineral resources management among the quarters of the year, the rules may require that applications for permits and annual reports be filed in different quarters of the year, depending upon the county in which the operation is located.

(B) The chief shall adopt rules under this section that do all of the following:

(1) With respect to in-stream mining, and in consultation with the chief of the division of water resources, determine periods of low flow, which are the only time periods during which in-stream mining is allowed, and develop and implement any criteria, in addition to the criteria established in section 1514.02 of the Revised Code, that the chief determines are necessary for the permitting of in-stream mining;

(2) Establish criteria and procedures for approving or disapproving the transfer of a surface or in-stream mining permit under division (F) of section 1514.02 of the Revised Code;

(3) Define when any of the following may be considered to be "significant" for purposes of section 1514.022 of the Revised Code:

(a) An amendment to a permit issued under section 1514.02 of the Revised Code for a surface or in-stream mining operation;

(b) An amendment to the plan of mining and reclamation that must be filed with an application for either permit under section 1514.02 of the Revised Code;

(c) Changes to that plan of mining and reclamation that are proposed in a permit renewal application filed under section 1514.021 of the Revised Code.

In defining "significant," the chief shall focus on changes that increase the likelihood that the mining operation may have a negative impact on the public.

(4) Establish a framework and procedures under which the amount of any bond required to be

filed under this chapter to ensure the satisfactory performance of the reclamation measures required under this chapter may be reduced by subtracting a credit based on the operator's past compliance with this chapter and rules adopted and orders issued under it. The rules also shall apply to cash, an irrevocable letter of credit, or a certificate of deposit that is on deposit in lieu of a bond. In establishing the amount of credit that an operator or applicant may receive based on past compliance, the chief may consider past compliance with respect to any permit for a surface or in-stream mining operation that has been issued in this state to the operator or applicant.

(5) Establish criteria and procedures for granting a variance from compliance with the prohibitions established in divisions (E)(3) and (F)(3) of section 1514.10 of the Revised Code. The criteria shall ensure that an operator may obtain a variance only if compliance with the applicable prohibition is not necessary to prevent damage to the watercourse or surrounding areas.

**Sec. 1514.13.** (A) The chief of the division of mineral resources management shall use the compilation of data for ground water modeling submitted under section 1514.02 of the Revised Code to establish a projected cone of depression for any surface mining operation that may result in dewatering. The chief shall consult with the chief of the division of water resources when projecting a cone of depression. An applicant for a surface mining permit for such an operation may submit ground water modeling that shows a projected cone of depression for that operation to the chief, provided that the modeling complies with rules adopted by the chief regarding ground water modeling. However, the chief shall establish the projected cone of depression for the purposes of this section.

The chief shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code establishing requirements and standards governing both of the following:

(1) Ground water modeling for establishing a projected cone of depression. A ground water model shall be generally accepted in the scientific community.

(2) Replacement of water supplies.

(B)(1) If an owner of real property who obtains all or part of the owner's water supply for domestic, agricultural, industrial, or other legitimate use from ground water has a diminution, contamination, or interruption of that water supply and the owner's real property is located within the projected cone of depression of a surface mining operation established under this section, the owner may submit a written complaint to the operator of that operation or to the chief informing the operator or the chief that there is a diminution, contamination, or interruption of the owner's water supply. The complaint shall include the owner's name, address, and telephone number.

If the chief receives a written complaint, the chief immediately shall send a copy of the complaint to the operator, and the operator immediately shall respond by sending the chief a statement that explains how the operator resolved or will resolve the complaint. If the operator receives a written complaint, the operator immediately shall send to the chief a copy of the complaint and include a statement that explains how the operator resolved or will resolve the complaint. Not later than seventy-two hours after receipt of the complaint, the operator shall provide the owner a supply of water that is comparable, in quantity and quality, to the owner's water supply prior to the diminution, contamination, or interruption of the owner's water supply. The operator shall maintain that water supply until the operator provides a permanent replacement water supply to the owner under division (B)(3) of this section or until the division of mineral resources management completes

the evaluation under division (B)(2) of this section, whichever is applicable.

(2) A rebuttable presumption exists that the operation caused the diminution, contamination, or interruption of the owner's water supply. However, not later than fourteen days after receipt of the complaint, the operator may submit to the division information showing that the operation is not the proximate cause of the diminution, contamination, or interruption of the owner's water supply. The division shall evaluate the information submitted by the operator to determine if the presumption is rebutted. If the operator fails to rebut the presumption, the division immediately shall notify the operator that the operator failed to rebut the presumption. Not later than fourteen days after receipt of that notice, the operator shall provide the owner a permanent replacement water supply that is comparable, in quantity and quality, to the owner's water supply prior to the diminution, contamination, or interruption of the owner's water supply. If the operator rebuts the presumption, the division immediately shall notify the operator that the operator rebutted the presumption, and, upon receipt of that notice, the operator may cease providing a supply of water to the owner under division (B)(1) of this section.

(3) If, within fourteen days after receipt of the complaint, the operator does not submit to the division information showing that the operation is not the proximate cause of the diminution, contamination, or interruption of the owner's water supply, the operator shall provide the owner, not later than twenty-eight days after receipt of the complaint, a permanent replacement water supply that is comparable, in quantity and quality, to the owner's water supply prior to the diminution, contamination, or interruption of the owner's water supply.

(4) The division may investigate a complaint under division (B) of this section.

(C) If an owner of real property who obtains all or part of the owner's water supply for domestic, agricultural, industrial, or other legitimate use from ground water has a diminution, contamination, or interruption of that water supply and the owner's real property is not located within the projected cone of depression of a surface mining operation established under this section, the owner may submit a written complaint to the operator of that operation or to the chief informing the operator or the chief that there is a diminution, contamination, or interruption of the owner's water supply. The complaint shall include the owner's name, address, and telephone number.

If the operator receives a written complaint, the operator immediately shall send the chief a copy of the complaint. If the chief receives a written complaint, the chief immediately shall send the operator a copy of the complaint. The chief shall investigate any complaint submitted under this division and, upon completion of the investigation, immediately shall send the results of the investigation to the operator and to the owner that filed the complaint.

An owner that submits a written complaint under this division may resolve the diminution, contamination, or interruption of the owner's water supply with the operator of that operation or may commence a civil action for that purpose.

(D) An operator may request the chief to amend the plan of mining and reclamation filed with the application under section 1514.02 of the Revised Code when a ground water user may affect the projected cone of depression established for the operation under division (A) of this section. The operator shall submit additional data that reflect the ground water user's impact on the ground water. The chief shall perform ground water modeling using the additional data and may establish a revised projected cone of depression for that operation.

(E) This section shall not be construed as creating, modifying, or affecting any right, liability, or remedy of surface riparian owners.

**Sec. 1514.40.** In accordance with Chapter 119. of the Revised Code, the chief of the division of mineral resources management, in consultation with a statewide association that represents the surface mining industry, shall adopt rules that do all of the following:

(A) For the purpose of establishing safety standards governing surface mining operations, incorporate by reference 30 C.F.R. parts 46, 47, 50, 56, 58, and 62, as amended;

(B) Establish criteria, standards, and procedures governing safety performance evaluations conducted under section 1514.45 of the Revised Code, including requirements for the notification of operators and the identification of authorized representatives of miners at surface mining operations for purposes of inspections conducted under sections 1514.41 to 1514.47 of the Revised Code;

(C) Establish requirements governing the reporting and investigation of accidents at surface mining operations. In adopting the rules, the chief shall establish requirements that minimize duplication with any reporting and investigations of accidents that are conducted by the mine safety and health administration in the United States department of labor.

(D) Establish the time, place, and frequency of mine safety training conducted under section 1514.06 of the Revised Code and a fee, if any, for the purpose of that section. The amount of the fee shall not exceed the costs of conducting the training that is required under that section.

(E) Establish the minimum qualifications necessary to take the examination that is required for certification of certified mine forepersons under division (B) of section 1514.47 of the Revised Code and requirements, fees, and procedures governing the taking of the examination;

(F) Establish requirements and fees governing the reissuance of certificates under division (C) of that section;

(G) Establish requirements and procedures for the approval of training plans submitted under division (D) of that section for the use of qualified persons to conduct examinations of surface mining operations in lieu of certified mine forepersons and minimum qualifications of those persons. The rules shall include requirements governing training frequency and curriculum that must be provided for qualified persons under such plans and shall establish related reporting and record keeping requirements.

As used in sections 1514.41 to 1514.47 of the Revised Code, "rule" means a rule adopted under this section unless the context indicates otherwise.

**Sec. 1514.42.** The chief of the division of mineral resources management may conduct one safety audit at a surface mining operation annually if the operator of the operation has requested the division of mineral resources management to conduct mine safety training for that year. The safety audit shall be scheduled at a time to which the chief and the operator mutually agree and shall not continue more than one day. The chief shall conduct additional safety audits at any surface mining operation if requested by the operator of the operation. If the chief conducts a safety audit, the operator shall ensure that the chief has a copy of the training plan that is required by 30 C.F.R. part 46, as amended, at the time of the audit.

After completion of an audit, the chief shall prepare a report that describes the general conditions of the surface mining operation, lists any hazardous conditions at the operation, lists any violations of the safety standards established in rules, and describes the nature and extent of any



hazardous condition or violation found and the corresponding remedy for each hazardous condition or violation. The chief shall provide two copies of the report to the operator of the operation. The operator shall post one copy of the report at the operation for review by the employees of the operation.

**Sec. 1514.47.** (A)(1) The operator of a surface mining operation shall employ a certified mine foreperson to be in charge of the conditions and practices at the mine and to be responsible for conducting examinations of the surface mining operation under 30 C.F.R. part 56, as amended.

(2) Examinations of surface mining operations for the purposes of 30 C.F.R. part 56, as amended, shall be conducted by one of the following:

(i)(a) A certified mine foreperson;

(ii)(b) A person who is qualified to conduct such examinations as provided in division (D) of this section;

(iii)(c) A person designated by the certified mine foreperson as a competent person.

(3) For purposes of this section, a competent person is a person who has been trained in accordance with 30 C.F.R. part 46 and been determined by a certified mine foreperson to have demonstrated the ability, training, knowledge, or experience necessary to perform the duty to which the person is assigned. A person is not a competent person if the chief of the division of mineral resources management demonstrates, with good cause, that the person does not have the ability, training, knowledge, or experience necessary to perform that duty.

(4) The operator of a surface mining operation shall maintain records demonstrating that a competent person designated by a certified mine foreperson has the ability, training, knowledge, or experience to perform the duty to which the person is assigned as well as records of the competent person's training in accordance with 30 C.F.R. part 46. The operator shall make the records available to the chief upon request.

(B) The chief shall conduct examinations for the position of certified mine foreperson in accordance with rules. In order to be eligible for examination as a certified mine foreperson, an applicant shall file with the chief an affidavit establishing the applicant's qualifications to take the examination. The chief shall grade examinations and issue certificates.

(C)(1) A certificate issued under this section shall not expire unless the certificate holder has not been employed in a surface mining operation for five consecutive years. If the certificate holder has not been employed in a surface mining operation for five consecutive years, the certificate holder may retake the mine foreperson examination or may petition the chief to accept past employment history in lieu of fulfilling the employment requirement established in this division. The chief shall grant or deny the petition by issuance of an order. If the chief grants the petition, the chief shall reissue the certificate.

(2) If a certificate issued under this section is suspended, the certificate shall not be renewed until the suspension period expires and the person whose certificate is suspended successfully completes all actions required by the chief. If an applicant's license, certificate, or similar authority that is issued by another state to perform specified mining duties is suspended or revoked by that state, the applicant shall be ineligible for examination for or renewal of a certificate in this state during that period of suspension or revocation. A certificate that has been revoked shall not be renewed.

(3) If a person who has been certified by the chief under this section purposely violates this chapter, the chief may suspend or revoke the certificate after an investigation and hearing conducted in accordance with Chapter 119. of the Revised Code are completed.

(4) If a person holds a certificate issued under this section that has not expired prior to ~~the effective date of this amendment~~ September 29, 2015, the chief, upon request, shall reissue to that person a certificate that does not expire as provided in division (C)(1) of this section.

(5) If a person holds a certificate issued under this section that expired on or after April 7, 2012, and has not been issued a new certificate prior to ~~the effective date of this amendment~~ September 29, 2015, the chief, upon request, shall issue to that person a certificate that does not expire as provided in division (C)(1) of this section, provided that the person is in compliance with all other applicable requirements established in this chapter and rules adopted under it.

(D) In lieu of employing a certified mine foreperson, the operator of a surface mining operation may submit to the chief a detailed training plan under which persons who qualify under the plan may conduct and document examinations at the surface mining operation for purposes of 30 C.F.R. part 56, as amended. The chief shall review the plan and determine if the plan complies with the requirements established in rules. The chief shall approve or deny the plan and notify in writing the operator who submitted the plan of the chief's decision.

**Sec. 1515.01.** As used in this chapter:

(A) "Soil and water conservation district" means a district organized in accordance with this chapter.

(B) "Supervisor" means one of the members of the governing body of a district.

(C) "Landowner," "owner," or "owner of land" means an owner of record as shown by the records in the office of the county recorder. With respect to an improvement or a proposed improvement, "landowner," "owner," or "owner of land" also includes any public corporation and the director of any department, office, or institution of the state that is affected by the improvement or that would be affected by the proposed improvement, but that does not own any right, title, estate, or interest in or to any real property.

(D) "Land occupier" or "occupier of land" means any person, firm, or corporation that controls the use of land whether as landowner, lessee, renter, or tenant.

(E) "Due notice" means notice published at least twice, stating time and place, with an interval of at least thirteen days between the two publication dates, in a newspaper of general circulation within a soil and water conservation district.

(F) "Agricultural pollution" means failure to use management or conservation practices in farming or silvicultural operations to abate wind or water erosion of the soil or to abate the degradation of the waters of the state by residual farm products, manure, or soil sediment, including substances attached thereto.

(G) "Urban sediment pollution" means failure to use management or conservation practices to abate wind or water erosion of the soil or to abate the degradation of the waters of the state by soil sediment in conjunction with land grading, excavating, filling, or other soil disturbing activities on land used or being developed for nonfarm commercial, industrial, residential, or other nonfarm purposes, except lands being used in a strip mine operation as defined in section 1513.01 of the Revised Code and except lands being used in a surface mining operation as defined in section

1514.01 of the Revised Code.

(H) "Uniform assessment" means an assessment that is both of the following:

(1) Based upon a complete appraisal of each parcel of land, together with all improvements thereon, within a project area and of the benefits or damages brought about as a result of the project that is determined by criteria applied equally to all parcels within the project area;

(2) Levied upon the parcels at a uniform rate on the basis of the appraisal.

(I) "Varied assessment" means any assessment that does not meet the criteria established in division (H) of this section.

(J) "Project area" means an area determined and certified by the supervisors of a soil and water conservation district under section 1515.19 of the Revised Code.

(K) "Benefit" or "benefits" means advantages to land and owners, to public corporations, and to the state resulting from drainage, conservation, control, and management of water and from environmental, wildlife, and recreational improvements. "Benefit" or "benefits" includes, but is not limited to, any of the following factors:

(1) Elimination or reduction of damage from flooding;

(2) Removal of water conditions that jeopardize public health, safety, or welfare;

(3) Increased value of land resulting from an improvement;

(4) Use of water for irrigation, storage, regulation of stream flow, soil conservation, water supply, or any other incidental purpose;

(5) Providing an outlet for the accelerated runoff from artificial drainage if a stream, watercourse, channel, or ditch that is under improvement is called upon to discharge functions for which it was not designed. Uplands that have been removed from their natural state by deforestation, cultivation, artificial drainage, urban development, or other human methods shall be considered to be benefited by an improvement that is required to dispose of the accelerated flow of water from the uplands.

(L) "Improvement" or "conservation works of improvement" means an improvement that is made under the authority established in division (C) of section 1515.08 of the Revised Code.

(M) "Land" has the same meaning as in section 6131.01 of the Revised Code.

(N) "Manure," "operation and management plan," and "residual farm products" have the same meanings as in section 1511.01 of the Revised Code.

(O) "Voluntary nutrient management plan" has the same meaning as in section 905.31 of the Revised Code.

**Sec. 1515.02.** There is hereby established in the department of natural resources the Ohio soil and water conservation commission. The commission shall consist of seven members of equal status and authority, six of whom shall be appointed by the governor with the advice and consent of the senate, and one of whom shall be designated by resolution of the board of directors of the Ohio federation of soil and water conservation districts. The directors of agriculture, environmental protection, and natural resources, the vice-president for agricultural administration of the Ohio state university, and an officer of the Ohio federation of soil and water conservation districts, or their designees, may serve as ex officio members of the commission, but without the power to vote. A vacancy in the office of an appointed member shall be filled by the governor, with the advice and consent of the senate. Any member appointed to fill a vacancy occurring prior to the expiration of the

term for which the member's predecessor was appointed shall hold office for the remainder of that term. Of the appointed members, four shall be persons who have a knowledge of or interest in agricultural production and the natural resources of the state. One member shall represent rural interests and one member shall represent urban interests. Not more than three of the appointed members shall be members of the same political party.

Terms of office of the member designated by the board of directors of the federation and the members appointed by the governor shall be for four years, commencing on the first day of July and ending on the thirtieth day of June.

Each appointed member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any appointed member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

The commission shall organize by selecting from its members a chairperson and a vice-chairperson. The commission shall hold at least one regular meeting in each quarter of each calendar year and shall keep a record of its proceedings, which shall be open to the public for inspection. Special meetings may be called by the chairperson and shall be called by the chairperson upon receipt of a written request signed by two or more members of the commission. Written notice of the time and place of each meeting shall be sent to each member of the commission. A majority of the commission shall constitute a quorum.

The commission may adopt rules as necessary to carry out the purposes of this chapter, subject to Chapter 119. of the Revised Code.

The governor may remove any appointed member of the commission at any time for inefficiency, neglect of duty, or malfeasance in office, after giving to the member a copy of the charges against the member and an opportunity to be heard publicly in person or by counsel in the member's defense. Any such act of removal by the governor is final. A statement of the findings of the governor, the reason for the governor's action, and the answer, if any, of the member shall be filed by the governor with the secretary of state and shall be open to public inspection.

All members of the commission shall be reimbursed for the necessary expenses incurred by them in the performance of their duties as members.

Upon recommendation by the commission, the director of natural resources shall designate an executive secretary and provide staff necessary to carry out the powers and duties of the commission.

The commission shall do all of the following:

(A) Determine distribution of funds under section 1515.14 of the Revised Code, recommend to the director of natural resources and other agencies the levels of appropriations to special funds established to assist soil and water conservation districts, and recommend the amount of federal funds to be requested and policies for the use of such funds in support of soil and water conservation district programs;

(B) Assist in keeping the supervisors of soil and water conservation districts informed of their powers and duties, program opportunities, and the activities and experience of all other districts, and facilitate the interchange of advice, experience, and cooperation between the districts;

(C) Seek the cooperation and assistance of the federal government or any of its agencies, and of agencies of this state, in the work of the districts;

(D) Adopt appropriate rules governing the conduct of elections provided for in this chapter, subject to Chapter 119. of the Revised Code, provided that only owners and occupiers of lands situated within the boundaries of the districts or proposed districts to which the elections apply shall be eligible to vote in the elections;

(E) Recommend to the director priorities for planning and construction of small watershed projects, and make recommendations to the director concerning coordination of programs as proposed and implemented in agreements with soil and water conservation districts;

(F) Recommend to the director, the governor, and the general assembly programs and legislation with respect to the operations of soil and water conservation districts that will encourage proper soil, water, and other natural resource management and promote the economic and social development of the state.

**Sec. 1515.05.** Each soil and water conservation district shall be administered by a board consisting of the five supervisors. Elections of supervisors shall be conducted by the Ohio soil and water conservation commission pursuant to rules it adopts under Chapter 119. of the Revised Code. The term of each supervisor shall be for three years, except that supervisors holding office on May 2, 1980, shall serve the terms to which they were elected or appointed under former section 1515.05 of the Revised Code. Due notice of election of supervisors shall be given by the commission. Successors to fill unexpired terms may be appointed by the commission on the unanimous recommendation of the remaining supervisors. In any case in which a unanimous recommendation cannot be agreed upon, a successor to fill an unexpired term shall be elected in the same manner in which ~~his~~ the supervisor's predecessor was elected.

Eligible voters and candidates for supervisor shall be at least eighteen years of age by the day of election. Candidates shall reside in the district in which they are running for office.

**Sec. 1515.07.** The governing body of a soil and water conservation district shall consist of five supervisors, as provided for in section 1515.05 of the Revised Code.

The supervisors shall organize annually by selecting a ~~chairman~~ chairperson, a secretary, and a treasurer. They shall designate one of their members as fiscal agent. A majority of the five supervisors shall constitute a quorum. The concurrence of a majority of the five supervisors in any matter shall be required for its determination. A supervisor shall receive no compensation for ~~his~~ the supervisor's services, except when both of the following occur:

(A) A district board of supervisors designates one or more of its supervisors to represent the district on a joint district board or if an agency or instrumentality of the United States, of this state, or of a political subdivision of this state requires or requests district board representation;

(B) Such compensation is provided for by public moneys other than moneys in the special fund of the local district created pursuant to section 1515.10 of the Revised Code.

A supervisor is entitled to be reimbursed for the necessary expenses incurred in the discharge of ~~his~~ official duties.

The supervisors shall furnish to the Ohio soil and water conservation commission, upon its request, copies of rules, orders, contracts, forms, and other documents they adopt or employ and other information concerning their activities as it requires in the performance of its duties under this chapter.

At least once each year, a district shall submit to the commission a report of progress and

operations, including a summary of receipts and disbursements during the period covered by the report. A district shall submit additional financial reports as requested by the commission.

The supervisors shall provide for the execution of surety bonds for all employees and officers who are entrusted with funds and shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions and orders issued or adopted. Any supervisor may be removed by the commission upon notice and hearing for neglect of duty or malfeasance in office.

**Sec. 1515.08.** The supervisors of a soil and water conservation district have the following powers in addition to their other powers:

(A) To conduct surveys, investigations, and research relating to the character of soil erosion, floodwater and sediment damages, and the preventive and control measures and works of improvement for flood prevention and the conservation, development, utilization, and disposal of water needed within the district, and to publish the results of those surveys, investigations, or research, provided that no district shall initiate any research program except in cooperation or after consultation with the Ohio agricultural research and development center;

(B) To develop plans for the conservation of soil resources, for the control and prevention of soil erosion, and for works of improvement for flood prevention and the conservation, development, utilization, and disposal of water within the district, and to publish those plans and information;

(C) To implement, construct, repair, maintain, and operate preventive and control measures and other works of improvement for natural resource conservation and development and flood prevention, and the conservation, development, utilization, and disposal of water within the district on lands owned or controlled by this state or any of its agencies and on any other lands within the district, which works may include any facilities authorized under state or federal programs, and to acquire, by purchase or gift, to hold, encumber, or dispose of, and to lease real and personal property or interests in such property for those purposes;

(D) To cooperate or enter into agreements with any occupier of lands within the district in the carrying on of natural resource conservation operations and works of improvement for flood prevention and the conservation, development, utilization, and management of natural resources within the district, subject to such conditions as the supervisors consider necessary;

(E) To accept donations, gifts, grants, and contributions in money, service, materials, or otherwise, and to use or expend them according to their terms;

(F) To adopt, amend, and rescind rules to carry into effect the purposes and powers of the district;

(G) To sue and plead in the name of the district, and be sued and impleaded in the name of the district, with respect to its contracts and, as indicated in section 1515.081 of the Revised Code, certain torts of its officers, employees, or agents acting within the scope of their employment or official responsibilities, or with respect to the enforcement of its obligations and covenants made under this chapter;

(H) To make and enter into all contracts, leases, and agreements and execute all instruments necessary or incidental to the performance of the duties and the execution of the powers of the district under this chapter, provided that all of the following apply:

(1) Except as provided in section 307.86 of the Revised Code regarding expenditures by boards of county commissioners, when the cost under any such contract, lease, or agreement, other

than compensation for personal services or rental of office space, involves an expenditure of more than the amount established in that section regarding expenditures by boards of county commissioners, the supervisors shall make a written contract with the lowest and best bidder after advertisement, for not less than two nor more than four consecutive weeks preceding the day of the opening of bids, in a newspaper of general circulation within the district or as provided in section 7.16 of the Revised Code and in such other publications as the supervisors determine. The notice shall state the general character of the work and materials to be furnished, the place where plans and specifications may be examined, and the time and place of receiving bids.

(2) Each bid for a contract shall contain the full name of every person interested in it.

(3) Each bid for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement shall meet the requirements of section 153.54 of the Revised Code.

(4) Each bid for a contract, other than a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, at the discretion of the supervisors, may be accompanied by a bond or certified check on a solvent bank in an amount not to exceed five per cent of the bid, conditioned that, if the bid is accepted, a contract shall be entered into.

(5) The supervisors may reject any and all bids.

(I) To make agreements with the department of natural resources giving it control over lands of the district for the purpose of construction of improvements by the department under section 1501.011 of the Revised Code;

(J) To charge, alter, and collect rentals and other charges for the use or services of any works of the district;

(K) To enter, either in person or by designated representatives, upon lands, private or public, in the necessary discharge of their duties;

(L) To enter into agreements or contracts with the department for the determination, implementation, inspection, and funding of agricultural pollution abatement and urban sediment pollution abatement measures whereby landowners, operators, managers, and developers may meet adopted state standards for a quality environment, except that failure of a district board of supervisors to negotiate an agreement or contract with the department shall authorize the division of soil and water resources to implement the required program;

(M) To conduct demonstrations and provide information to the public regarding practices and methods for natural resource conservation, development, and utilization;

(N) To enter into contracts or agreements with the chief of the division of soil and water resources to implement and administer a program for urban sediment pollution abatement and to receive and expend moneys provided by the chief for that purpose;

(O) To develop operation and management plans as necessary;

(P) To determine whether operation and management plans developed under division (A) of section 1511.021 of the Revised Code comply with the standards established under division (E)(1) of section 1511.02 of the Revised Code and to approve or disapprove the plans, based on such compliance. If an operation and management plan is disapproved, the board shall provide a written explanation to the person who submitted the plan. The person may appeal the plan disapproval to the chief, who shall afford the person a hearing. Following the hearing, the chief shall uphold the plan disapproval or reverse it. If the chief reverses the plan disapproval, the plan shall be deemed

approved under this division. In the event that any person operating or owning agricultural land or an animal feeding operation in accordance with an approved operation and management plan who, in good faith, is following that plan, causes agricultural pollution, the plan shall be revised in a fashion necessary to mitigate the agricultural pollution, as determined and approved by the board of supervisors of the soil and water conservation district.

(Q) With regard to composting conducted in conjunction with agricultural operations, to do all of the following:

(1) Upon request or upon their own initiative, inspect composting at any such operation to determine whether the composting is being conducted in accordance with section 1511.022 of the Revised Code;

(2) If the board determines that composting is not being so conducted, request the chief to issue an order under division (G) of section 1511.02 of the Revised Code requiring the person who is conducting the composting to prepare a composting plan in accordance with rules adopted under division (E)(8)(c) of that section and to operate in accordance with that plan or to operate in accordance with a previously prepared plan, as applicable;

(3) In accordance with rules adopted under division (E)(8)(c) of section 1511.02 of the Revised Code, review and approve or disapprove any such composting plan. If a plan is disapproved, the board shall provide a written explanation to the person who submitted the plan.

As used in division (Q) of this section, "composting" has the same meaning as in section 1511.01 of the Revised Code.

(R) With regard to conservation activities that are conducted in conjunction with agricultural operations, to assist the county auditor, upon request, in determining whether a conservation activity is a conservation practice for purposes of Chapter 929. or sections 5713.30 to 5713.37 and 5715.01 of the Revised Code.

As used in this division, "conservation practice" has the same meaning as in section 5713.30 of the Revised Code.

(S) To develop and approve or disapprove voluntary nutrient management plans in accordance with section 905.323 of the Revised Code;

(T) To do all acts necessary or proper to carry out the powers granted in this chapter.

The director of natural resources shall make recommendations to reduce the adverse environmental effects of each project that a soil and water conservation district plans to undertake under division (A), (B), (C), or (D) of this section and that will be funded in whole or in part by moneys authorized under section 1515.16 of the Revised Code and shall disapprove any such project that the director finds will adversely affect the environment without equal or greater benefit to the public. The director's disapproval or recommendations, upon the request of the district filed in accordance with rules adopted by the Ohio soil and water conservation commission, shall be reviewed by the commission, which may confirm the director's decision, modify it, or add recommendations to or approve a project the director has disapproved.

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

**Sec. 1515.081.** (A) As used in this section:



(1) "Judgment" includes a consent judgment.

(2) "Tort action" means a civil action for damages for injury, death, or loss to person or property, other than a civil action for damages for a breach of contract or another agreement between persons.

(B) Except as provided in divisions (C) and (D) of this section, the provisions of Chapter 2744. of the Revised Code apply to soil and water conservation districts as political subdivisions of the state and to their supervisors and other officers, employees, and agents as employees of political subdivisions of the state.

(C)(1) The attorney general, an assistant attorney general, or special counsel appointed by the attorney general shall defend a soil and water conservation district in any tort action that is commenced against the district as a political subdivision of the state under or pursuant to Chapter 2744. of the Revised Code, if a written request for the legal representation is submitted to the attorney general by the soil and water conservation commission. If a request is so submitted, the prosecuting attorney of the county associated with the district does not have legal representation duties in connection with the tort action under section 1515.11 of the Revised Code.

(2) The attorney general, an assistant attorney general, or special counsel appointed by the attorney general shall defend a supervisor or other officer, employee, or agent of a soil and water conservation district in any tort action that is commenced against that person and based upon an action or omission allegedly associated with ~~his~~ that person's employment or official responsibilities for the district, if both of the following apply:

(a) At the time of the action or omission, the person was not acting manifestly outside the scope of ~~his~~ the person's employment or official responsibilities for the district or acting with malicious purpose, in bad faith, or in a wanton or reckless manner;

(b) A written request for the legal representation is submitted to the attorney general by the soil and water conservation commission.

(3) If a request for legal representation is submitted to the attorney general pursuant to division (C)(2) of this section, divisions (A)(1) and (C) of section 2744.07 of the Revised Code do not apply to the soil and water conservation district and the defense of its supervisor or other officer, employee, or agent.

(D)(1) The state shall indemnify and hold harmless a soil and water conservation district as follows:

(a) In the amount of any judgment that is rendered against the district in a tort action that is commenced under or pursuant to Chapter 2744. of the Revised Code;

(b) In the amount of any settlement of a tort action against the district as described in division (D)(1)(a) of this section, or of a claim for damages for injury, death, or loss to person or property that could become a basis of a tort action against the district as described in division (D)(1)(a) of this section.

(2) The state shall indemnify and hold harmless a supervisor or other officer, employee, or agent of a soil and water conservation district as follows:

(a) Subject to the limitations specified in division (D)(3) of this section, in the amount of any judgment that is rendered against that person in a tort action based upon an action or omission allegedly associated with ~~his~~ the person's employment or official responsibilities for the district;

(b) Subject to the limitations specified in division (D)(3) of this section, in the amount of any settlement of a tort action as described in division (D)(2)(a) of this section or of any settlement of a claim for damages for injury, death, or loss to person or property that could become a basis of a tort action as described in division (D)(2)(a) of this section.

(3)(a) The maximum aggregate amount of indemnification paid directly from state funds to or on behalf of any supervisor or other officer, employee, or agent of a soil and water conservation district pursuant to divisions (D)(2)(a) and (b) of this section shall be one million dollars per occurrence, regardless of the number of persons who suffer injury, death, or loss to person or property as a result of the action or omission of that person.

(b) An indemnification may be made pursuant to division (D)(2)(a) or (b) of this section only if, at the time of the action or omission, the supervisor or other officer, employee, or agent of a soil and water conservation district was not acting manifestly outside the scope of ~~his~~ the supervisor's or other officer's, employee's, or agent's employment or official responsibilities for the district or acting with malicious purpose, in bad faith, or in a wanton or reckless manner.

(c) An indemnification shall not be made pursuant to division (D)(2)(a) or (b) of this section for any portion of a consent judgment or settlement that is unreasonable or for any portion of a judgment that represents punitive or exemplary damages.

(4) Division (A)(2) of section 2744.07 of the Revised Code does not apply to a soil and water conservation district, or to any of its supervisors or other officers, employees, or agents, to the extent that division (D) of this section requires the state to indemnify and hold harmless a supervisor or other officer, employee, or agent of that district.

**Sec. 1515.09.** The supervisors of a soil and water conservation district may employ assistants and such other employees as they consider necessary and may provide for the payment of the reasonable compensation of such assistants and employees and expenses incurred by them in the discharge of their duties from the special fund established for the district pursuant to section 1515.10 of the Revised Code.

District employees are entitled to the sick leave benefits that are provided in section 124.38 of the Revised Code and the vacation leave benefits that are provided in section 325.19 of the Revised Code and are entitled to participate in the sick leave donation program established under section 1515.091 of the Revised Code.

The supervisors may designate the amounts and forms of other benefits, including insurance protection, to be provided to employees and may make payments of benefits from the district fund that is created with moneys accepted by the supervisors in accordance with division (E) of section 1515.08 of the Revised Code or from the special fund created pursuant to section 1515.10 of the Revised Code. The board of county commissioners may make payments of benefits that are provided under this section.

The supervisors may purchase such materials, equipment, and supplies, may lease such equipment, and may rent, purchase, or construct, and maintain, such offices, and provide for such equipment and supplies therefor, as they consider necessary and may pay for the same from the special fund established for the district pursuant to section 1515.10 of the Revised Code.

**Sec. 1515.091.** (A) As used in this section:

(1) "Receiving employee" means an employee of a soil and water conservation district who

receives donated sick leave as authorized by this section.

(2) "Donating employee" means an employee of a soil and water conservation district who donates sick leave as authorized by this section.

(3) "Paid leave" has the same meaning as in section 124.391 of the Revised Code.

(4) "Full-time employee" means an employee of a soil and water conservation district whose regular hours of service for the district total forty hours per week or who renders any other standard of service accepted as full-time by the district.

(5) "Full-time limited hours employee" means an employee of a soil and water conservation district whose regular hours of service for the district total twenty-five to thirty-nine hours per week or who renders any other standard of service accepted as full-time limited hours by the district.

(B)(1) An employee of a soil and water conservation district is eligible to become a receiving employee if the employee is a full-time employee, or a full-time limited hours employee, who has completed the prescribed probationary period, has used up all accrued paid leave, and has been placed on an approved, unpaid, medical-related leave of absence for a period of at least thirty consecutive working days because of the employee's own serious illness or because of a serious illness of a member of the employee's immediate family.

(2) An employee who desires to become a receiving employee shall submit to the board of supervisors of the employing soil and water conservation district, along with a satisfactory physician's certification, a written request for donated sick leave. The board of supervisors shall determine whether the employee is eligible to become a receiving employee and shall approve the request if it determines the employee is eligible.

(C)(1) A board of supervisors that approves a request for an employee to become a receiving employee shall forward the approved application to a committee that the Ohio association of soil and water conservation district employees shall appoint to act as a clearinghouse for the donation of sick leave under this section. The committee shall post notice for not less than ten days informing all employees of soil and water conservation districts throughout the state that it has received an approved application to become a receiving employee.

(2) A soil and water conservation district employee desiring to become a donating employee shall complete and submit a sick leave donation form to the employee's immediate supervisor within twenty days after the date of the initial posting of the notice described in division (C)(1) of this section. If the board of supervisors of the employing district of an employee desiring to become a donating employee approves the sick leave donation, the board shall forward to the committee, together with a check equal to the total value of the sick leave donation, a copy of the sick leave donation form, and the board shall notify the receiving employee regarding the donation.

(D) If the committee described in division (C)(1) of this section receives a sick leave donation form and a check from a board of supervisors, the committee shall deposit the check into an account that it shall establish to be used to dispense funds to the employing district of a receiving employee. The committee shall notify the board of supervisors of the employing district of a receiving employee of the amount of sick leave donated. The board of supervisors shall bill the committee during each pay period for the receiving employee's gross hourly wages in an amount that does not exceed the amount donated to the receiving employee. The board of supervisors, with the approval of the county auditor, shall provide for the deposit into its appropriate payroll account of

any payments it receives for the benefit of a receiving employee.

(E) The donation and receipt of sick leave under this section is subject to all of the following:

(1) All donations of sick leave shall be voluntary.

(2) A donating employee is eligible to donate not less than eight hours and not more than eighty hours of sick leave during the same calendar year.

(3) The value of an hour of sick leave donated is the value of the donating employee's gross hourly wage. The number of hours received by a receiving employee from a donating employee shall be a number that, when multiplied by the receiving employee's gross hourly wage, equals the amount resulting when the donating employee's gross hourly wage is multiplied by the number of hours of sick leave donated.

(4) No paid leave shall accrue to a receiving employee for any compensation received through donated sick leave, and the receipt of donated sick leave does not affect the date on which a receiving employee first qualifies for continuation of health insurance coverage.

(5) If a receiving employee does not use all donated sick leave during the period of the employee's leave of absence, the unused balance shall remain in the account that the committee described in division (C)(1) of this section established under division (D) of this section and shall be used to dispense funds in the future to the employing district of a receiving employee.

**Sec. 1515.092.** (A) When the supervisors of a soil and water conservation district find, by resolution, that the district has personal property, including motor vehicles acquired for the use of district officers, road machinery, equipment, tools, or supplies, which is not needed for public use, or is obsolete or unfit for the use for which it was acquired, the supervisors may sell such property at public auction or by sealed bid to the highest bidder, after giving at least ten days' notice of the time, place, and manner of sale by posting a typewritten or printed notice in the office of the board of county commissioners. In case the fair market value of the property to be sold pursuant to this division is, in the opinion of the supervisors, in excess of two thousand dollars, notice of the time, place, and manner of the sale shall also be published in a newspaper of general circulation in the district at least ten days prior to such sale. The supervisors may authorize the sale of such personal property without advertisement or public notification and competitive bidding to the federal government, state, or any political subdivision of the state.

If the supervisors conduct a sale of personal property by sealed bid, the form of the bid shall be as prescribed by the supervisors, and each bid shall contain the name of the person submitting it. Bids received shall be opened and tabulated at the time stated in the notice. The property shall be sold to the highest bidder, except that the supervisors may reject all bids and hold another sale, by public auction or sealed bid, in the manner prescribed by this section.

(B) Where the supervisors find, by resolution, that the district has vehicles, equipment, or machinery which is not needed, or is unfit for public use, and the supervisors desire to sell such vehicles, equipment, or machinery to the person or firm from which they propose to purchase other vehicles, equipment, or machinery, the supervisors may offer to sell the vehicles, equipment, or machinery to such person or firm, and to have such selling price credited to the person or firm against the purchase price of other vehicles, equipment, or machinery.

(C) Where the supervisors advertise for bids for the sale of new vehicles, equipment, or machinery to the district, they may include in the same advertisement a notice of their willingness to

accept bids for the purchase of district-owned vehicles, equipment, or machinery which is obsolete or not needed for public use, and to have the amount of such bids subtracted from the selling price of the other vehicles, equipment, or machinery as a means of determining the lowest responsible bidder.

**Sec. 1515.093.** The supervisors of a soil and water conservation district may hold one or more credit cards on behalf of the district and may authorize any supervisor or employee of the district to use such a credit card to pay for expenses related to the purposes of the district. The supervisors shall pay the debt incurred as a result of the use of such a credit card from money accepted by the supervisors as authorized under division (E) of section 1515.08 of the Revised Code or from the special fund established for the district under section 1515.10 of the Revised Code.

The misuse of a credit card held on behalf of a soil and water conservation district is a violation of section 2913.21 of the Revised Code. In addition, a supervisor or employee of a district who makes unauthorized use of such a credit card may be held personally liable to the district for the unauthorized use. This section does not limit any other liability of a supervisor or employee of a district for the unauthorized use of such a credit card.

A supervisor or employee of a soil and water conservation district who is authorized to use a credit card that is held on behalf of the district and who suspects the loss, theft, or possibility of another person's unauthorized use of the credit card immediately shall notify the supervisors in writing of the suspected loss, theft, or possible unauthorized use.

**Sec. 1515.10.** The board of county commissioners of each county in which there is a soil and water conservation district may levy a tax within the ten-mill limitation and may appropriate money from the proceeds of the levy or from the general fund of the county. The money shall be held in a special fund for the credit of the district, to be expended for the purposes prescribed in sections 1515.09 and 1515.093 of the Revised Code, for construction and maintenance of improvements by the district, and for other expenses incurred in carrying out the program of the district upon the written order of the fiscal agent for the district after authorization by a majority of the supervisors of the district.

**Sec. 1515.11.** The prosecuting attorney of a county in which there is a soil and water conservation district shall be the legal adviser of the district. The prosecuting attorney shall be the legal counsel of such district in all civil actions brought by or against it and shall conduct all such actions in his the prosecuting attorney's official capacity. The supervisors of a district may also employ such attorneys as may be necessary or desirable in the operations of the district.

**Sec. 1515.13.** Sections 1515.01 to 1515.29 of the Revised Code do not infringe upon the rights, powers, and authority vested by law in the division of wildlife.

**Sec. 1515.14.** Within the limits of funds appropriated to the department of natural resources and the soil and water conservation district assistance fund created in this section, there shall be paid in each calendar year to each local soil and water conservation district an amount not to exceed one dollar for each one dollar received in accordance with section 1515.10 of the Revised Code, received from tax levies in excess of the ten-mill levy limitation approved for the benefit of local soil and water conservation districts, or received from an appropriation by a municipal corporation or a township to a maximum of eight thousand dollars, provided that the Ohio soil and water conservation commission may approve payment to a district in an amount in excess of eight thousand dollars in any calendar year upon receipt of a request and justification from the district. The county auditor

shall credit such payments to the special fund established pursuant to section 1515.10 of the Revised Code for the local soil and water conservation district. The department may make advances at least quarterly to each district on the basis of the estimated contribution of the state to each district. Moneys received by each district shall be expended for the purposes of the district.

For the purpose of providing money to soil and water conservation districts under this section, there is hereby created in the state treasury the soil and water conservation district assistance fund consisting of money credited to it under sections 3714.073 and 3734.901 and division (A)(4) of section 3734.57 of the Revised Code.

**Sec. 1515.16.** The director of natural resources, upon recommendation by the Ohio soil and water conservation commission, may enter into agreements with boards of county commissioners under which the state shares the cost of construction of works of improvement constructed by the county for a soil and water conservation district. The state share shall be paid from moneys appropriated for such purposes. The state share authorized under this section shall not exceed fifty per cent of the nonfederal cost of the project.

**Sec. 1515.17.** The supervisors of any two or more adjoining soil and water conservation districts may, with approval of the Ohio soil and water conservation commission, form a joint board of supervisors for the purpose of construction, maintenance, and operation of a work of improvement located or to be located in such districts. Each district shall have the same number of supervisors on the joint board, except that where the members on the joint board would otherwise be an even number, an additional supervisor shall be designated from the district in which it appears that the highest amount of taxes or assessment for benefits for the improvement is to be made.

A joint board may exercise the powers given the supervisors of a soil and water conservation district under Chapter 1515. of the Revised Code in connection with the work of improvement for which it was formed.

**Sec. 1515.18.** An owner of land that is located in a soil and water conservation district may file a petition with the supervisors of the district requesting the construction of a conservation works of improvement. Upon the receipt of such a petition, the supervisors shall make a preliminary determination to accept or reject the petition.

A petition may be rejected if the supervisors determine that the information that it contains about the proposed improvement is insufficient to enable the supervisors to proceed with the petition under this chapter or if the petition appears to be frivolous. The supervisors also may reject a petition on the grounds that the district lacks sufficient staff or other resources to proceed with the improvement in accordance with this chapter. If the supervisors reject a petition, they shall notify the petitioner of the reasons for the rejection. A petition that was rejected due to insufficient information may be supplemented with additional information and filed again.

If the supervisors accept a petition for a proposed improvement, they shall establish a date and time for a view of the proposed improvement, which date shall be not fewer than twenty-five nor more than ninety days after the date on which the petition was filed. The supervisors shall designate a convenient place near the proposed improvement at which the view shall start.

Upon receipt of a petition, the supervisors also shall establish a date and time on and at which and designate a location at which they will hold a hearing on the proposed improvement. The hearing shall occur not later than ninety days after the date established for the view.

**Sec. 1515.183.** Upon acceptance of a petition requesting the construction of an improvement, the supervisors of a soil and water conservation district shall begin to prepare, as a guide to the board of county commissioners and the petitioners, a preliminary report regarding the proposed improvement. The supervisors shall present the completed preliminary report at the hearing that is held on the proposed improvement.

The preliminary report shall include a preliminary estimate of cost, comments on the feasibility of the project, and a statement of the supervisors' opinion as to whether the benefits from the project are likely to exceed the estimated cost. The preliminary report shall identify all factors that are apparent to the supervisors, both favorable and unfavorable to the proposed improvement, so that the petitioners may be informed concerning what is involved with the construction of the improvement.

In addition to reporting on the improvement as petitioned, the supervisors may submit alternate proposals to accomplish the intent of the petition. The preliminary report and all alternate proposals shall be reviewed and receive concurrence from an engineer who is employed by the division of soil and water resources or by the natural resources conservation service in the United States department of agriculture and who is responsible for providing technical assistance to the district or from any other registered professional engineer whom the supervisors choose.

**Sec. 1515.19.** At the conclusion of the hearing on a proposed improvement, the supervisors of a soil and water conservation district may approve the petition for the improvement if they are reasonably certain that the cost of the proposed improvement will be less than the benefits from it and if they find that the improvement is necessary, that it will be conducive to the public welfare, that it will improve water management and development in the county in which the district is located to the advantage of lands located in it, and that it will aid lands in the area by promoting the economical, industrial, environmental, or social development of the area.

Upon approval of the petition, the supervisors shall establish a date by which the supervisors must complete, in accordance with sections 1515.191 to 1515.193 of the Revised Code, plans and specifications for the improvement together with estimates of damages from and costs for it. The date established shall allow as much time as is necessary for the preparation of the plans, specifications, and estimates. The supervisors may extend the completion date if necessary. Upon completion of the plans, specifications, and estimates, the supervisors shall do both of the following:

(A) Determine the area that would be benefited by the proposed improvement and certify the determination together with the supervisors' approval of the improvement to the board of county commissioners of each county containing land included in the benefited area;

(B) Submit the plans, specifications, and estimates together with the preliminary report to each such board.

**Sec. 1515.191.** Upon approval by the supervisors of a soil and water conservation district of a petition for a proposed improvement, the supervisors or their designee shall conduct all necessary surveys for the proposed improvement. In addition, the supervisors or their designee shall prepare plans for constructing the improvement and shall prepare maps showing the location of the land that is proposed to be assessed in accordance with section 1515.24 of the Revised Code for the improvement.

The supervisors or their designee shall prepare specifications for construction of the

improvement and shall specify dimensions of any temporary easement that is necessary for construction purposes. In addition, the supervisors or their designee shall make estimates of the cost of material and any excavation costs. The construction of the improvement may be divided into construction areas if that would be expedient.

In the case of an improvement that is a ditch or similar structure for the disposal of water, the specifications for its construction that the supervisors or their designee must prepare shall provide for spreading and leveling of spoil banks and shall provide for erosion and sediment control through the establishment of a sod or seeded strip not fewer than four feet nor more than fifteen feet wide, measured at right angles to the top of the ditch bank on both sides of the ditch, except where suitable vegetative cover exists. The strip or other such controls shall be considered to be part of the permanent improvement. Sod or seeded strips that are established and maintained in excess of four feet shall be compensated for by their removal from the taxable valuation of the property of which they are a part.

The supervisors or their designee shall make note of all fences, floodgates, culverts, bridges, and other structures that will be removed or adjusted in constructing the improvement. The supervisors or their designee also shall make note of any gates that need to be installed in existing fences in order to provide access to the improvement for maintenance purposes. The gates shall be locked when requested by the owner of the fence and shall be considered to be a part of the original improvement and subject to maintenance along with the improvement.

The supervisors shall submit the plans, specifications, and other information prepared in accordance with this section to the board of county commissioners of each county in which the proposed improvement is to be located.

**Sec. 1515.21.** Upon receipt of a certification under section 1515.19 of the Revised Code, the board of county commissioners shall, within sixty days, approve or disapprove construction of the improvement. If a board disapproves construction of the improvement, the supervisors may revise the plan for the improvement and again proceed under section 1515.19 of the Revised Code. If the board of county commissioners of each county containing any of the territory included in the project area approves construction of the improvement, the board, or if there is more than one such county, the joint board formed under section 1515.22 of the Revised Code, has in addition to its other powers, the powers of a soil and water conservation district granted by division (C) of section 1515.08 of the Revised Code.

When considering whether to approve or disapprove construction of an improvement, the board shall consider all of the following factors:

- (A) The cost of location and construction;
- (B) The compensation for land or other property that must be taken;
- (C) The benefits to the public welfare;
- (D) The benefits to land, public corporations, and the state needing the improvement;
- (E) In the case of an improvement involving the drainage of water, the effect on land below the improvement that may be caused by constructing the improvement and the sufficiency or insufficiency of the outlet that receives flow from the improvement;
- (F) Any other proper matter that will assist the board in approving or disapproving construction of the improvement.



When, in the opinion of the board of county commissioners, it is necessary for the board to acquire real property or a right-of-way or other easement for a conservation works of improvement under this chapter, the board may appropriate the real property or right-of-way or other easement in accordance with sections 163.01 to 163.62 of the Revised Code.

If the board approves construction of the improvement, the county engineer shall file with the county recorder a property plat showing the general location of the improvement and a statement describing the dimensions of any permanent easement that is necessary for maintenance of the improvement. In the case of an improvement that is an open ditch, provisions that govern the permanent easement for maintenance of the ditch that are established in section 6137.12 of the Revised Code shall apply.

A board shall follow sections 307.86 to 307.91 of the Revised Code, except that the board may designate the board of supervisors as the contracting agency and it shall follow division (H) of section 1515.08 of the Revised Code, or except that if the improvement is being undertaken through the joint efforts and cooperation of the board of county commissioners or board of supervisors and another state or federal agency, and if the state or federal regulations or procedures are in conflict with those sections with respect to the procedures for the preparing of contracts, the issuing of bids, the making of awards, and generally the administering of the contracts, the board of county commissioners or board of supervisors may adopt the state or federal regulations or procedures in those areas where conflict exists and proceed with the improvement in accordance with the requirements of the state or federal regulations or procedures.

**Sec. 1515.211.** (A) A board of county commissioners that approves construction of a proposed improvement or the board's designee shall prepare a schedule of estimated assessments on property within the area that is to be benefited by the improvement. In preparing the schedule, the board or its designee shall use information concerning the proposed improvement that must be submitted to the board by the supervisors of a soil and water conservation district. The information includes plans for the proposed improvement, including surveys, maps, and specifications, together with schedules of damages, cost estimates, and any related reports that the supervisors or their designee prepared.

The schedule of estimated assessments that must be prepared shall include the name and address of each owner of land believed to be benefited by the proposed improvement together with a description of the land. The names and descriptions shall be obtained from the tax duplicates of the county. The board or its designee shall enter in the schedule the amount of each estimated assessment, which shall be determined using considerations established in section 1515.24 of the Revised Code. In no case shall an assessment be less than twenty-five dollars for each parcel of land, except in the case of a multi-parcel lot, in which case the board may charge a minimum of twenty-five dollars with respect to all of the parcels comprising the multi-parcel lot. In addition, the board may charge an assessment of less than twenty-five dollars if the board determines that a lower amount is appropriate, provided that the lower amount includes the cost of preparing and mailing the notice required under division (D)(1) of section 1515.24 of the Revised Code. The total of the estimated assessments, including the total estimated assessments allocated to public corporations and the state, shall equal the estimated cost of the proposed improvement. The board shall use the schedule of estimated assessments for purposes of levying final assessments under section 1515.24 of

the Revised Code.

(B) As used in this section, "multi-parcel lot" means a site on which a dwelling is located and that comprises two or more contiguous parcels of land.

**Sec. 1515.22.** The boards of county commissioners of all the counties containing any of the territory included in the project area, if all such counties have approved construction of an improvement under section 1515.21 of the Revised Code, are a joint board of county commissioners for the improvement.

A joint board of county commissioners may do all the things that a board of county commissioners may do in connection with the improvement and shall proceed as if it were a board of county commissioners representing a county that included all the territory within the project area.

The joint board may agree to apportion any cost of the improvement, or expenses incurred in connection therewith, not paid by assessments or taxes levied for the improvement, or funds other than county funds, among the participating counties.

The joint board shall elect one of its members president and designate a clerk of one of the boards of county commissioners of the participating counties as clerk of the joint board. A majority of the county commissioners constituting the joint board constitutes a quorum. All decisions of the joint board shall be made by a majority vote of the county commissioners constituting the joint board.

For the purpose of bringing a referendum petition against a soil and water conservation project under section 305.31 of the Revised Code, a resolution adopted by a joint board of county commissioners shall be considered to be a resolution adopted by the board of county commissioners of each county in the project area. The electors of any county in the project area may file a petition for referendum under that section against a resolution adopted by the joint board of county commissioners as if it had been adopted by the board of county commissioners for that county. The referendum shall be conducted only in the county in which the referendum petition was filed. The electors of any county in the project area in which no referendum petition was filed shall not be eligible to vote in the referendum, and the outcome of a referendum shall have effect only in the county in which the referendum was held. Any county in the project area in which a referendum is not held remains subject to the provisions of the resolution adopted by the joint board of county commissioners for the soil and water conservation district.

**Sec. 1515.23.** The county auditor and county treasurer of one of the counties represented by a joint board of county commissioners under section 1515.22 of the Revised Code, to be designated by the joint board, shall ex officio become the fiscal agents of all the participating counties. Such auditor shall certify to the auditor of the other counties a schedule of any taxes or assessments to be levied for the improvement, and the auditor of such other county shall proceed forthwith to place such tax or assessment upon the duplicates. Taxes or assessments so certified for collection to an auditor of another county is a lien on the land within such county from the date such certificate is received by the auditor of such other county. The treasurer of each county shall proceed to collect the same pursuant to the orders made in the proceedings of the joint board, and such taxes or assessments when collected shall be paid to the treasurer for the joint board. The auditor and treasurer shall receive and account for such funds in the same manner as they would for taxes or assessments collected within their county. The treasurer and auditor with their ~~bondsmen~~ bondspersons are liable

on their official bonds for any misappropriation of such funds. All warrants for the payment of costs in connection with the improvement shall be drawn by the auditor designated under this section, on the treasurer of said county, payable out of the fund designated by the joint board to receive moneys for the improvement.

**Sec. 1515.24.** (A) Following receipt of a certification made by the supervisors of a soil and water conservation district pursuant to section 1515.19 of the Revised Code together with receipt of all plans, specifications, and estimates submitted under that section and upon completion of a schedule of estimated assessments in accordance with section 1515.211 of the Revised Code, the board of county commissioners may adopt a resolution levying upon the property within the project area an assessment at a uniform or varied rate based upon the benefit to the area certified by the supervisors, as necessary to pay the cost of construction of the improvement not otherwise funded and to repay advances made for purposes of the improvement from the fund created by section 1515.15 of the Revised Code. The board of county commissioners shall direct the person or authority preparing assessments to give primary consideration, in determining a parcel's estimated assessments relating to the disposal of water, to the potential increase in productivity that the parcel may experience as a result of the improvement and also to give consideration to the amount of water disposed of, the location of the property relative to the project, the value of the project to the watershed, and benefits. The part of the assessment that is found to benefit state, county, or township roads or highways or municipal streets shall be assessed against the state, county, township, or municipal corporation, respectively, payable from motor vehicle revenues. The part of the assessment that is found to benefit property owned by any public corporation, any political subdivision of the state, or the state shall be assessed against the public corporation, the political subdivision, or the state and shall be paid out of the general funds or motor vehicle revenues of the public corporation, the political subdivision of the state, or the state, except as otherwise provided by law.

(B) The assessment shall be certified to the county auditor and by the county auditor to the county treasurer. The collection of the assessment shall conform in all matters to Chapter 323. of the Revised Code.

(C) Any land owned and managed by the department of natural resources for wildlife, recreation, nature preserve, or forestry purposes is exempt from assessments if the director of natural resources determines that the land derives no benefit from the improvement. In making such a determination, the director shall consider the purposes for which the land is owned and managed and any relevant articles of dedication or existing management plans for the land. If the director determines that the land derives no benefit from the improvement, the director shall notify the board of county commissioners, within thirty days after receiving the assessment notification required by this section, indicating that the director has determined that the land is to be exempt and explaining the specific reason for making this determination. The board of county commissioners, within thirty days after receiving the director's exemption notification, may appeal the determination to the court of common pleas. If the court of common pleas finds in favor of the board of county commissioners, the department of natural resources shall pay all court costs and legal fees.

(D)(1) The board shall give notice by first class mail to every public and private property owner whose property is subject to assessment, at the tax mailing or other known address of the owner. The notice shall contain a statement of the amount to be assessed against the property of the

addressee, a description of the method used to determine the necessity for and the amount of the proposed assessment, a description of any easement on the property that is necessary for purposes of the improvement, and a statement that the addressee may file an objection in writing at the office of the board of county commissioners within thirty days after the mailing of notice. If the residence of any owner cannot be ascertained, or if any mailed notice is returned undelivered, the board shall publish the notice to all such owners in a newspaper of general circulation within the project area, once each week for three weeks or as provided in section 7.16 of the Revised Code. The notice shall include the information contained in the mailed notice, but shall state that the owner may file an objection in writing at the office of the board of county commissioners within thirty days after the last publication of the notice.

(2) Upon receipt of objections as provided in this section, the board shall proceed within thirty days to hold a final hearing on the objections by fixing a date and giving notice by first class mail to the objectors at the address provided in filing the objection. If any mailed notice is returned undelivered, the board shall give due notice to the objectors in a newspaper of general circulation in the project area or as provided in section 7.16 of the Revised Code, stating the time, place, and purpose of the hearing. Upon hearing the objectors, the board may adopt a resolution amending and approving the final schedule of assessments and shall enter it in the journal.

(3) Any owner whose objection is not allowed may appeal within thirty days to the court of common pleas of the county in which the property is located.

(4) The board of county commissioners shall make an order approving the levying of the assessment and shall proceed under section 6131.23 of the Revised Code after one of the following has occurred, as applicable:

(a) Final notice is provided by mail or publication.

(b) The imposition of assessments is upheld in the final disposition of an appeal that is filed pursuant to division (D)(3) of this section.

(c) The resolution levying the assessments is approved in a referendum that is held pursuant to section 305.31 of the Revised Code.

(5) The county treasurer shall deposit the proceeds of the assessment in the fund designated by the board and shall report to the county auditor the amount of money from the assessment that is collected by the treasurer. Moneys shall be expended from the fund for purposes of the improvement.

(E) Any moneys collected in excess of the amount needed for construction of the improvement and the subsequent first year's maintenance may be maintained in a fund to be used for maintenance of the improvement. In any year subsequent to a year in which an assessment for construction of an improvement levied under this section has been collected, and upon determination by the board of county commissioners that funds are not otherwise available for maintenance or repair of the improvement, the board shall levy on the property within the project area an assessment for maintenance at a uniform percentage of all construction costs based upon the assessment schedule used in determining the construction assessment. The assessment is not subject to the provisions concerning notice and petition contained in this section. An assessment for maintenance shall not be levied in any year in which the unencumbered balance of funds available for maintenance of the improvement exceeds twenty per cent of the cost of construction of the improvement, except that the board may adjust the level of assessment within the twenty per cent limitation, or suspend

temporarily the levying of an assessment, for maintenance purposes as maintenance funds are needed.

For the purpose of levying an assessment for maintenance of an improvement, a board may use the procedures established in Chapter 6137. of the Revised Code regarding maintenance of improvements as defined in section 6131.01 of the Revised Code in lieu of using the procedures established under this section.

(F) The board of county commissioners may issue bonds and notes as authorized by section 131.23 or 133.17 of the Revised Code.

**Sec. 1515.28.** A board of county commissioners may declare by resolution that it is necessary to levy a tax upon the property within the project area in order to pay the costs of the improvement not otherwise funded.

Such resolution shall specify the rate which it is necessary to levy, the purpose thereof, and the number of years during which such increase shall be in effect, which levy may include a levy upon the duplicate of the current year.

A copy of the resolution shall be certified to the board of elections for the county not less than ninety days before the general election in any year and said board shall submit the proposal to the electors within the project area at the succeeding November election in accordance with section 5705.25 of the Revised Code. For purposes of that section, the subdivision is the project area.

If the per cent required for approval of a levy as set forth in section 5705.26 of the Revised Code vote in favor thereof, the board of county commissioners may levy a tax within the project area, outside the ten-mill limitation, during the period and for the purpose stated in the resolution, or at any less rate or for any less number of years.

The board may issue bonds and notes in anticipation of the collection of taxes levied under this section, and notes in anticipation of the issuance of bonds.

**Sec. 1515.29.** The board of county commissioners, or, if a joint board of county commissioners has been created under section 1515.22 of the Revised Code, the joint board, shall maintain the works of improvement constructed by the board for a soil and water conservation district. For that purpose, the board or joint board may use procedures and requirements established in sections 6137.08 to 6137.14 of the Revised Code and may contract with or authorize the supervisors or joint board of supervisors of a soil and water conservation district to perform maintenance of such works of improvement.

**Sec. 1521.03.** The chief of the division of water resources shall do all of the following:

(A) Assist in an advisory capacity any properly constituted watershed district, conservancy district, or soil and water conservation district or any county, municipal corporation, or other government agency of the state in the planning of works for ground water recharge, flood mitigation, floodplain management, flood control, flow capacity and stability of streams, rivers, and watercourses, or the establishment of water conservation practices, within the limits of the appropriations for those purposes;

(B) Have authority to conduct basic inventories of the water and related natural resources in each drainage basin in the state; to develop a plan on a watershed basis that will recognize the variety of uses to which water may be put and the need for its management for those uses; with the approval of the director of natural resources and the controlling board, to transfer appropriated or other funds,

authorized for those inventories and plan, to any division of the department of natural resources or other state agencies for the purpose of developing pertinent data relating to the plan of water management; and to accept and expend moneys contributed by any person for implementing the development of the plan;

(C) Have authority to make detailed investigations of all factors relating to floods, floodplain management, and flood control in the state with particular attention to those factors bearing upon the hydraulic and hydrologic characteristics of rivers, streams, and watercourses, recognizing the variety of uses to which water and watercourses may be put;

(D) Cooperate with the United States or any agency thereof and with any political subdivision of the state in planning and constructing flood control works;

(E) Hold meetings or public hearings, whichever is considered appropriate by the chief, to assist in the resolution of conflicts between ground water users. Such meetings or hearings shall be called upon written request from boards of health of city or general health districts created by or under the authority of Chapter 3709. of the Revised Code or authorities having the duties of a board of health as authorized by section 3709.05 of the Revised Code, boards of county commissioners, boards of township trustees, legislative authorities of municipal corporations, or boards of directors of conservancy districts and may be called by the chief upon the request of any other person or at the chief's discretion. The chief shall collect and present at such meetings or hearings the available technical information relevant to the conflicts and to the ground water resource. The chief shall prepare a report, and may make recommendations, based upon the available technical data and the record of the meetings or hearings, about the use of the ground water resource. In making the report and any recommendations, the chief also may consider the factors listed in division (B) of section 1521.17 of the Revised Code. The technical information presented, the report prepared, and any recommendations made under this division shall be presumed to be prima-facie authentic and admissible as evidence in any court pursuant to Evidence Rule 902.

(F) Perform stream or ground water gauging and may contract with the United States government or any other agency for the gauging of any streams or ground water within the state;

(G) Primarily with regard to water quantity, have authority to collect, study, map, and interpret all available information, statistics, and data pertaining to the availability, supply, use, conservation, and replenishment of the ground and surface waters in the state in coordination with other agencies of this state;

(H) Primarily with regard to water quantity and availability, be authorized to cooperate with and negotiate for the state with any agency of the United States government, of this state, or of any other state pertaining to the water resources of the state;

(I) Provide engineering support for the coastal management program established under Chapter 1506. of the Revised Code.

**Sec. 1521.031.** There is hereby created in the department of natural resources the Ohio water advisory council. The council shall consist of seven members appointed by the governor with the advice and consent of the senate. No more than four of the members shall be of the same political party. Members shall be persons who have a demonstrated interest in water management and whose expertise reflects the various responsibilities of the division of water resources under this chapter and Chapter 1523. of the Revised Code, including, but not limited to, dam safety, surface water,

groundwater, and flood plain management. The chief of the division of water resources may participate in the deliberations of the council, but shall not vote.

Terms of office of members shall be for two years commencing on the second day of February and ending on the first day of February. Each member shall hold office from the date of appointment until the end of the term for which appointed. The governor may remove any member at any time for inefficiency, neglect of duty, or malfeasance in office. In the event of the death, removal, resignation, or incapacity of any member, the governor, with the advice and consent of the senate, shall appoint a successor to hold office for the remainder of the term for which the member's predecessor was appointed. Any member shall continue in office following the expiration date of the member's term until the member's successor takes office or until sixty days have elapsed, whichever occurs first. Membership on the council does not constitute holding a public office or position of employment under the Revised Code and is not grounds for removal of public officers or employees from their offices or positions of employment.

The council annually shall select from its members a chairperson and a vice-chairperson. The council shall hold at least one meeting each calendar quarter and shall keep a record of its proceedings, which shall be open to the public for inspection. Special meetings may be called by the chairperson and shall be called upon the written request of two or more members. A majority of the members constitutes a quorum. The division shall furnish clerical, technical, legal, and other services required by the council in the performance of its duties.

Members shall receive no compensation, but shall be reimbursed from the appropriations for the division for the actual and necessary expenses incurred by them in the performance of their official duties.

The council shall:

(A) Advise the chief of the division of water resources in carrying out the duties of the division under this chapter and Chapter 1523. of the Revised Code;

(B) Recommend such policy and legislation with respect to water management and conservation as will promote the economic, industrial, and social development of the state while minimizing threats to the state's natural environment;

(C) Review and make recommendations on the development of plans and programs for long-term, comprehensive water management throughout the state; and

(D) Recommend ways to enhance cooperation among governmental agencies having an interest in water to encourage wise use and protection of the state's ground and surface waters. To this end, the council shall request nonvoting representation from appropriate governmental agencies.

**Sec. 1521.04.** The chief of the division of water resources, with the approval of the director of natural resources, may make loans and grants from the water management fund created in section 1501.32 of the Revised Code to governmental agencies for water management, water supply improvements, and planning and may administer grants from the federal government and from other public or private sources for carrying out those functions and for the performance of any acts that may be required by the United States or by any agency or department thereof as a condition for the participation by any governmental agency in any federal financial or technical assistance program. Direct and indirect costs of administration may be paid from the fund.

The chief may use the water management fund for the purposes of administering the water

diversion and consumptive use permit programs established in sections 1501.30 to 1501.35 of the Revised Code and the withdrawal and consumptive use permit program established under sections 1522.10 to 1522.21 of the Revised Code; to perform watershed and water resources studies for the purposes of water management planning; and to acquire, construct, reconstruct, improve, equip, maintain, operate, and dispose of water management improvements. The chief may fix, alter, charge, and collect rates, fees, rentals, and other charges to be paid into the fund by governmental agencies and persons who are supplied with water by facilities constructed or operated by the department of natural resources in order to amortize and defray the cost of the construction, maintenance, and operation of those facilities.

**Sec. 1521.05.** (A) As used in this section:

(1) "Construct" or "construction" includes drilling, boring, digging, deepening, altering, and logging.

(2) "Altering" means changing the configuration of a well, including, without limitation, deepening a well, extending or replacing any portion of the inside or outside casing or wall of a well that extends below ground level, plugging a portion of a well back to a certain depth, and reaming out a well to enlarge its original diameter.

(3) "Logging" means describing the lithology, grain size, color, and texture of the formations encountered during the drilling, boring, digging, deepening, or altering of a well.

(4) "Grouting" means neat cement; bentonite products in slurry, granular, or pelletized form, excluding drilling mud or fluids; or any combination of neat cement and bentonite products that is placed within a well to seal the annular space or to seal an abandoned well and that is impervious to and capable of preventing the movement of water.

(5) "Abandoned well" means a well whose use has been permanently discontinued and that poses potential health and safety hazards or that has the potential to transmit surface contaminants into the aquifer in which the well has been constructed.

(6) "Sealing" means the complete filling of an abandoned well with grouting or other approved materials in order to permanently prevent the vertical movement of water in the well and thus prevent the contamination of ground water or the intermixing of water between aquifers.

(B) Any person that constructs a well shall keep a careful and accurate log of the construction of the well. The log shall show all of the following:

(1) The character, including, without limitation, the lithology, color, texture, and grain size, the name, if known, and the depth of all formations passed through or encountered;

(2) The depths at which water is encountered;

(3) The static water level of the completed well;

(4) A copy of the record of all pumping tests and analyses related to those tests, if any;

(5) Construction details, including lengths, diameters, and thicknesses of casing and screening and the volume, type of material, and method of introducing gravel packing and grouting into the well;

(6) The type of pumping equipment installed, if any;

(7) The name of the owner of the well, the address of the location where the well was constructed, and either the state plane coordinates or the latitude and longitude of the well;

(8) The signature of the individual who constructed the well and filed the well log;



(9) Any other information required by the chief of the division of water resources.

The log shall be filed with the division of water resources within thirty days after the completion of construction of the well on forms prescribed and prepared by the division. The log shall be kept on file by the division.

(C) Any person that seals a well shall keep a careful and accurate report of the sealing of the well. The sealing report shall show all of the following:

(1) The name of the owner of the well, the address of the location where the well was constructed, and either the state plane coordinates or the latitude and longitude of the well;

(2) The depth of the well, the size and length of its casing, and the static water level of the well;

(3) The sealing procedures, including the volume and type of sealing material or materials and the method and depth of placement of each material;

(4) The date on which the sealing was performed;

(5) The signature of the individual who sealed the well and filed the sealing report;

(6) Any other information required by the chief.

The sealing report shall be filed with the division within thirty days after the completion of the sealing of the well on forms prescribed and prepared by the division.

(D) In accordance with Chapter 119. of the Revised Code, the chief may adopt, amend, and rescind rules requiring other persons that are involved in the construction or subsequent development of a well to submit well logs under division (B) of this section containing any or all of the information specified in divisions (B)(1) to (9) of this section and specifying additional information to be included in sealing reports required under division (C) of this section. The chief shall adopt rules establishing procedures and requirements governing the payment and collection of water well log filing fees, including the amount of any filing fee to be imposed as an alternative to the twenty-dollar filing fee established in division (G) of this section and including procedures for the quarterly transfer of filing fees by boards of health and the director of environmental protection under that division.

(E)(1) No person shall fail to keep and file a well log or a sealing report as required by this section.

(2) No person shall make a false statement in any well log or sealing report required to be kept and filed under this section. Violation of division (E)(2) of this section is falsification under section 2921.13 of the Revised Code.

(F) For the purposes of prosecution of a violation of division (E)(1) of this section, a prima-facie case is established when the division obtains either of the following:

(1) A certified copy of a permit for a private water system issued in accordance with rules adopted under section 3701.344 of the Revised Code, or a certified copy of the invoice or a canceled check from the owner of a well indicating the construction or sealing services performed;

(2) A certified copy of any permit issued under Chapter 3734. or 6111. of the Revised Code or plan approval granted under Chapter 6109. of the Revised Code for any activity that includes the construction or sealing of a well as applicable.

(G) In accordance with rules adopted under this section, a person or entity that constructs a well for the purpose of extracting potable water as part of a private water system that is subject to

rules adopted under section 3701.344 of the Revised Code or a public water system that is required to be licensed under Chapter 6109. of the Revised Code shall pay a well log filing fee of twenty dollars per well log or, if the chief has adopted rules establishing an alternative fee amount, the fee amount established under rules. The fee shall be collected by a board of health under section 3701.344 of the Revised Code or the environmental protection agency under section 6109.22 of the Revised Code, as applicable.

Each calendar quarter, a board of health or the environmental protection agency, as applicable, shall forward all well log filing fees collected during the previous calendar quarter to the division of water resources. The fees shall be forwarded in accordance with procedures established in rules adopted under this section.

Proceeds of well log filing fees shall be used by the division of water resources for the purposes of acquiring, maintaining, and dispensing digital and paper records of well logs that are filed with the division.

**Sec. 1521.06.** (A) No dam may be constructed for the purpose of storing, conserving, or retarding water, or for any other purpose, nor shall any levee be constructed for the purpose of diverting or retaining flood water, unless the person or governmental agency desiring the construction has a construction permit for the dam or levee issued by the chief of the division of water resources.

A construction permit is not required under this section for:

(1) A dam that is or will be less than ten feet in height and that has or will have a storage capacity of not more than fifty acre-feet at the elevation of the top of the dam, as determined by the chief. For the purposes of this section, the height of a dam shall be measured from the natural stream bed or lowest ground elevation at the downstream or outside limit of the dam to the elevation of the top of the dam.

(2) A dam, regardless of height, that has or will have a storage capacity of not more than fifteen acre-feet at the elevation of the top of the dam, as determined by the chief;

(3) A dam, regardless of storage capacity, that is or will be six feet or less in height, as determined by the chief;

(4) A dam or levee that belongs to a class exempted by the chief;

(5) The repair, maintenance, improvement, alteration, or removal of a dam or levee that is subject to section 1521.062 of the Revised Code, unless the construction constitutes an enlargement or reconstruction of the structure as determined by the chief;

(6) A dam or impoundment constructed under Chapter 1513. of the Revised Code.

(B) Before a construction permit may be issued, three copies of the plans and specifications, including a detailed cost estimate, for the proposed construction, prepared by a registered professional engineer, together with any filing fee specified by rules adopted by the chief in accordance with division (I) of this section and the bond or other security required by section 1521.061 of the Revised Code, shall be filed with the chief. The detailed estimate of the cost shall include all costs associated with the construction of the dam or levee, including supervision and inspection of the construction by a registered professional engineer.

All fees collected pursuant to this section, and all fines collected pursuant to section 1521.99 of the Revised Code, shall be deposited in the state treasury to the credit of the dam safety fund,

which is hereby created. Expenditures from the fund shall be made by the chief for the purpose of administering this section and sections 1521.061 and 1521.062 of the Revised Code.

(C) The chief shall, within thirty days from the date of the receipt of the application, fee, and bond or other security, issue or deny a construction permit for the construction or may issue a construction permit conditioned upon the making of such changes in the plans and specifications for the construction as the chief considers advisable if the chief determines that the construction of the proposed dam or levee, in accordance with the plans and specifications filed, would endanger life, health, or property.

(D) The chief may deny a construction permit after finding that a dam or levee built in accordance with the plans and specifications would endanger life, health, or property, because of improper or inadequate design, or for such other reasons as the chief may determine.

In the event the chief denies a permit for the construction of the dam or levee, or issues a permit conditioned upon a making of changes in the plans or specifications for the construction, the chief shall state the reasons therefor and so notify, in writing, the person or governmental agency making the application for a permit. If the permit is denied, the chief shall return the bond or other security to the person or governmental agency making application for the permit.

The decision of the chief conditioning or denying a construction permit is subject to appeal as provided in Chapter 119. of the Revised Code. A dam or levee built substantially at variance from the plans and specifications upon which a construction permit was issued is in violation of this section. The chief may at any time inspect any dam or levee, or site upon which any dam or levee is to be constructed, in order to determine whether it complies with this section.

(E) A registered professional engineer shall inspect the construction for which the permit was issued during all phases of construction and shall furnish to the chief such regular reports of the engineer's inspections as the chief may require. When the chief finds that construction has been fully completed in accordance with the terms of the permit and the plans and specifications approved by the chief, the chief shall approve the construction. When one year has elapsed after approval of the completed construction, and the chief finds that within this period no fact has become apparent to indicate that the construction was not performed in accordance with the terms of the permit and the plans and specifications approved by the chief, or that the construction as performed would endanger life, health, or property, the chief shall release the bond or other security. No bond or other security shall be released until one year after final approval by the chief, unless the dam or levee has been modified so that it will not retain water and has been approved as nonhazardous after determination by the chief that the dam or levee as modified will not endanger life, health, or property.

(F) When inspections required by this section are not being performed, the chief shall notify the person or governmental agency to which the permit has been issued that inspections are not being performed by the registered professional engineer and that the chief will inspect the remainder of the construction. Thereafter, the chief shall inspect the construction and the cost of inspection shall be charged against the owner. Failure of the registered professional engineer to submit required inspection reports shall be deemed notice that the engineer's inspections are not being performed.

(G) The chief may order construction to cease on any dam or levee that is being built in violation of this section, and may prohibit the retention of water behind any dam or levee that has been built in violation of this section. The attorney general, upon written request of the chief, may

bring an action for an injunction against any person who violates this section or to enforce an order or prohibition of the chief made pursuant to this section.

(H) The chief may adopt rules in accordance with Chapter 119. of the Revised Code, for the design and construction of dams and levees for which a construction permit is required by this section or for which periodic inspection is required by section 1521.062 of the Revised Code, for deposit and forfeiture of bonds and other securities required by section 1521.061 of the Revised Code, for the periodic inspection, operation, repair, improvement, alteration, or removal of all dams and levees, as specified in section 1521.062 of the Revised Code, and for establishing classes of dams or levees that are exempt from the requirements of this section and section 1521.062 of the Revised Code as being of a size, purpose, or situation that does not present a substantial hazard to life, health, or property. The chief may, by rule, limit the period during which a construction permit issued under this section is valid. The rules may allow for the extension of the period during which a permit is valid upon written request, provided that the written request includes a revised construction cost estimate, and may require the payment of an additional filing fee for the requested extension. If a construction permit expires without an extension before construction is completed, the person or agency shall apply for a new permit, and shall not continue construction until the new permit is issued.

(I) The chief shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a filing fee schedule for purposes of division (B) of this section.

**Sec. 1521.061.** Except as otherwise provided in this section, a construction permit shall not be issued under section 1521.06 of the Revised Code unless the person or governmental agency applying for the permit executes and files a surety bond conditioned on completion of the dam or levee in accordance with the terms of the permit and the plans and specifications approved by the chief of the division of water resources, in an amount equal to fifty per cent of the estimated cost of the project.

If a permittee requests an extension of the time period during which a construction permit is valid in accordance with rules adopted under section 1521.06 of the Revised Code, the chief shall determine whether the revised construction cost estimate provided with the request exceeds the original construction cost estimate that was filed with the chief by more than twenty-five per cent. If the revised construction cost estimate exceeds the original construction cost estimate by more than twenty-five per cent, the chief may require an additional surety bond to be filed so that the total amount of the surety bonds equals at least fifty per cent of the revised construction cost estimate.

The chief shall not approve any bond until it is personally signed and acknowledged by both principal and surety, or as to either by the attorney in fact thereof, with a certified copy of the power of attorney attached. The chief shall not approve the bond unless there is attached a certificate of the superintendent of insurance that the company is authorized to transact a fidelity and surety business in this state.

All bonds shall be given in a form prescribed by the chief and shall run to the state as obligee.

The applicant may deposit, in lieu of a bond, cash in an amount equal to the amount of the bond or United States government securities or negotiable certificates of deposit issued by any bank organized or transacting business in this state having a par value equal to or greater than the amount of the bond. Such cash or securities shall be deposited upon the same terms as bonds. If one or more

certificates of deposit are deposited in lieu of a bond, the chief shall require the bank that issued any such certificate to pledge securities of the aggregate market value equal to the amount of the certificate that is in excess of the amount insured by the federal deposit insurance corporation. The securities to be pledged shall be those designated as eligible under section 135.18 of the Revised Code. The securities shall be security for the repayment of the certificate of deposit.

Immediately upon a deposit of cash, securities, or certificates of deposit, the chief shall deliver them to the treasurer of state, who shall hold them in trust for the purposes for which they have been deposited. The treasurer of state is responsible for the safekeeping of such deposits. An applicant making a deposit of cash, securities, or certificates of deposit may withdraw and receive from the treasurer of state, on the written order of the chief, all or any portion of the cash, securities, or certificates of deposit, upon depositing with the treasurer of state cash, other United States government securities, or negotiable certificates of deposit issued by any bank organized or transacting business in this state equal in par value to the par value of the cash, securities, or certificates of deposit withdrawn. An applicant may demand and receive from the treasurer of state all interest or other income from any such securities or certificates as it becomes due. If securities so deposited with and in the possession of the treasurer of state mature or are called for payment by the issuer thereof, the treasurer of state, at the request of the applicant who deposited them, shall convert the proceeds of the redemption or payment of the securities into such other United States government securities, negotiable certificates of deposit issued by any bank organized or transacting business in this state, or cash as the applicant designates.

When the chief finds that a person or governmental agency has failed to comply with the conditions of the person's or agency's bond, the chief shall make a finding of that fact and declare the bond, cash, securities, or certificates of deposit forfeited in the amount set by rule of the chief. The chief shall thereupon certify the total forfeiture to the attorney general, who shall proceed to collect that amount.

In lieu of total forfeiture, the surety, at its option, may cause the dam or levee to be completed as required by section 1521.06 of the Revised Code and rules of the chief, or otherwise rendered nonhazardous, or pay to the treasurer of state the cost thereof.

All moneys collected on account of forfeitures of bonds, cash, securities, and certificates of deposit under this section shall be credited to the dam safety fund created in section 1521.06 of the Revised Code. The chief shall make expenditures from the fund to complete dams and levees for which bonds have been forfeited or to otherwise render them nonhazardous.

Expenditures from the fund for those purposes shall be made pursuant to contracts entered into by the chief with persons who agree to furnish all of the materials, equipment, work, and labor as specified and provided in the contract.

A surety bond shall not be required for a permit for a dam or levee that is to be designed and constructed by an agency of the United States government, if the agency files with the chief written assurance of the agency's financial responsibility for the structure during the one-year period following the chief's approval of the completed construction provided for under division (E) of section 1521.06 of the Revised Code.

**Sec. 1521.062.** (A) All dams and levees constructed in this state and not exempted by this section or by the chief of the division of water resources under section 1521.06 of the Revised Code

shall be inspected periodically by the chief, except for classes of dams that, in accordance with rules adopted under this section, are required to be inspected by registered professional engineers who have been approved for that purpose by the chief. The inspection shall ensure that continued operation and use of the dam or levee does not constitute a hazard to life, health, or property. Periodic inspections shall not be required of the following structures:

(1) A dam that is less than ten feet in height and has a storage capacity of not more than fifty acre-feet at the elevation of the top of the dam, as determined by the chief. For the purposes of this section, the height of a dam shall be measured from the natural stream bed or lowest ground elevation at the downstream or outside limit of the dam to the elevation of the top of the dam.

(2) A dam, regardless of height, that has a storage capacity of not more than fifteen acre-feet at the elevation of the top of the dam, as determined by the chief;

(3) A dam, regardless of storage capacity, that is six feet or less in height, as determined by the chief;

(4) A dam or levee belonging to a class exempted by the chief;

(5) A dam or levee that has been exempted in accordance with rules adopted under section 1521.064 of the Revised Code.

(B) In accordance with rules adopted under this section, the owner of a dam that is in a class of dams that is designated in the rules for inspection by registered professional engineers shall obtain the services of a registered professional engineer who has been approved by the chief to conduct the periodic inspection of dams pursuant to schedules and other standards and procedures established in the rules. The registered professional engineer shall prepare a report of the inspection in accordance with the rules and provide the inspection report to the dam owner who shall submit it to the chief. A dam that is designated under the rules for inspection by a registered professional engineer, but that is not inspected within a five-year period may be inspected by the chief at the owner's expense.

(C) Intervals between periodic inspections shall be determined by the chief, but shall not exceed five years.

(D) In the case of a dam or levee that the chief inspects, the chief shall furnish a report of the inspection to the owner of the dam or levee. With regard to a dam or levee that has been inspected, either by the chief or by a registered professional engineer, and that is the subject of an inspection report prepared or received by the chief, the chief shall inform the owner of any required repairs, maintenance, investigations, and other remedial and operational measures. The chief shall order the owner to perform such repairs, maintenance, investigations, or other remedial or operational measures as the chief considers necessary to safeguard life, health, or property. The order shall permit the owner a reasonable time in which to perform the needed repairs, maintenance, investigations, or other remedial measures, and the cost thereof shall be borne by the owner. All orders of the chief are subject to appeal as provided in Chapter 119. of the Revised Code. The attorney general, upon written request of the chief, may bring an action for an injunction against any person who violates this section or to enforce an order of the chief made pursuant to this section.

(E) The owner of a dam or levee shall monitor, maintain, and operate the structure and its appurtenances safely in accordance with state rules, terms and conditions of permits, orders, and other requirements issued pursuant to this section or section 1521.06 of the Revised Code. The owner shall fully and promptly notify the division of water resources and other responsible authorities of

any condition that threatens the safety of the structure and shall take all necessary actions to safeguard life, health, and property.

(F) Before commencing the repair, improvement, alteration, or removal of a dam or levee, the owner shall file an application including plans, specifications, and other required information with the division and shall secure written approval of the application by the chief. Emergency actions by the owner required to safeguard life, health, or property are exempt from this requirement. The chief may, by rule, define maintenance, repairs, or other remedial measures of a routine nature that are exempt from this requirement.

(G) The chief may remove or correct, at the expense of the owner, any unsafe structures found to be constructed or maintained in violation of this section or section 1521.06 of the Revised Code. In the case of an owner other than a governmental agency, the cost of removal or correction of any unsafe structure, together with a description of the property on which the unsafe structure is located, shall be certified by the chief to the county auditor and placed by the county auditor upon the tax duplicate. This cost is a lien upon the lands from the date of entry and shall be collected as other taxes and returned to the division. In the case of an owner that is a governmental agency, the cost of removal or correction of any unsafe structure shall be recoverable from the owner by appropriate action in a court of competent jurisdiction.

(H) If the condition of any dam or levee is found, in the judgment of the chief, to be so dangerous to the safety of life, health, or property as not to permit time for the issuance and enforcement of an order relative to repair, maintenance, or operation, the chief shall employ any of the following remedial means necessary to protect life, health, and property:

- (1) Lower the water level of the lake or reservoir by releasing water;
- (2) Completely drain the lake or reservoir;
- (3) Take such other measures or actions as the chief considers necessary to safeguard life, health, and property.

The chief shall continue in full charge and control of the dam or levee until the structure is rendered safe. The cost of the remedy shall be recoverable from the owner of the structure by appropriate action in a court of competent jurisdiction.

(I) The chief may accept and expend gifts, bequests, and grants from the United States government or from any other public or private source and may contract with the United States government or any other agency or entity for the purpose of carrying out the dam safety functions set forth in this section and section 1521.06 of the Revised Code.

(J) In accordance with Chapter 119. of the Revised Code, the chief may adopt, and may amend or rescind, rules that do all of the following:

- (1) Designate classes of dams for which dam owners must obtain the services of a registered professional engineer to periodically inspect the dams and to prepare reports of the inspections for submittal to the chief;
- (2) Establish standards in accordance with which the chief must approve or disapprove registered professional engineers to inspect dams together with procedures governing the approval process;
- (3) Establish schedules, standards, and procedures governing periodic inspections and standards and procedures governing the preparation and submittal of inspection reports;

(4) Establish provisions regarding the enforcement of this section and rules adopted under it.

(K) The owner of a dam or levee shall notify the chief in writing of a change in ownership of the dam or levee prior to the exchange of the property.

**Sec. 1521.063.** (A) Except for the federal government, the owner of a dam, that is classified as a class I, class II, or class III dam under rules adopted under section 1521.06 of the Revised Code and subject to section 1521.062 of the Revised Code shall pay an annual fee in accordance with the annual fee schedule established in rules adopted under division (B) of this section. The fee shall be paid to the division of water resources on or before the thirtieth day of June of each year.

All fees collected under this section shall be deposited in the dam safety fund created in section 1521.06 of the Revised Code. Any owner who fails to pay any annual fee required by this section within sixty days after the due date shall be assessed a penalty of ten per cent of the annual fee plus interest at the rate of one-half per cent per month from the due date until the date of payment.

There is hereby created the compliant dam discount program to be administered by the chief of the division of water resources. Under the program, the chief may reduce the amount of the annual fee that an owner of a dam is required to pay in accordance with rules adopted by the chief under division (B) of this section if the owner is in compliance with section 1521.062 of the Revised Code and has developed an emergency action plan pursuant to standards established in rules adopted under this section. The chief shall not discount an annual fee by more than twenty-five per cent of the total annual fee that is due. In addition, the chief shall not discount the annual fee that is due from the owner of a dam who has been assessed a penalty under this section.

(B)(1) The chief shall, in accordance with Chapter 119. of the Revised Code and subject to the prior approval of the director of natural resources, adopt, and may amend or rescind, rules for the collection of fees and the administration, implementation, and enforcement of this section.

(2) The chief shall, in accordance with Chapter 119. of the Revised Code, adopt rules for the establishment of an annual fee schedule for purposes of this section.

(3) The annual fee schedule must be based on the height of the dam, the linear foot length of the dam, and the per-acre foot of volume of water impounded by the dam. For purposes of this section, the height of a dam is the vertical height, to the nearest foot, as determined by the division under section 1521.062 of the Revised Code.

(C)(1) No person, political subdivision, or state governmental agency shall violate or fail to comply with this section or any rule or order adopted or issued under it.

(2) The attorney general, upon written request of the chief, may commence an action against any such violator. Any action under division (C)(2) of this section is a civil action.

(D) As used in this section, "political subdivision" includes townships, municipal corporations, counties, school districts, municipal universities, park districts, sanitary districts, and conservancy districts and subdivisions thereof.

**Sec. 1521.064.** The chief of the division of water resources, in accordance with Chapter 119. of the Revised Code, shall adopt, and may amend and rescind, rules establishing a program under which dams and levees may be exempted from inspections under section 1521.062 of the Revised Code if the continued operation and use of, and any rupturing of or other structural damage to, the dams and levees will not constitute a hazard to life, health, or property. The rules shall establish,



without limitation, all of the following:

(A) A procedure by which the owner of such a dam or levee may apply for an exemption under this section;

(B) The standards that a dam or levee shall meet in order to be exempted under this section;

(C) A procedure by which the chief shall periodically review the status of a dam or levee that has been exempted under this section to determine if the exemption should be rescinded;

(D) A requirement that the owner of any dam or levee exempted under this section shall agree, in writing, to accept liability for any injury, death, or loss to persons or property caused by the rupturing of or other structural damage to the dam or levee.

**Sec. 1521.07.** The chief of the division of water resources or any employee in the service of the division may enter upon lands to make surveys and inspections in accordance with this chapter, when necessary in the discharge of the duties enumerated in this chapter.

**Sec. 1521.10.** In order to be entitled to the compensation provided for in section 1521.09 of the Revised Code, the landowner shall have prepared and submit to the division of water resources complete plans for the dam provided for in such section. The plans shall have the approval of the chief of the division of water resources and the dam shall be constructed in accordance with such plans before compensation can be claimed.

**Sec. 1521.11.** Upon the completion of the dam referred to in section 1521.09 of the Revised Code to the satisfaction of the division of water resources, it shall certify the completion and the capacity thereof to the county auditor who shall thereupon make such reduction in the assessed valuation of the contiguous landowner as the contiguous landowner is entitled to receive under sections 1521.09 to 1521.12 of the Revised Code.

**Sec. 1521.12.** In the event that any dam is constructed before plans are submitted to and approved by the division of water resources as required by section 1521.10 of the Revised Code, the landowner may submit plans of the dam the landowner has built, showing the area of the drainage basin above the dam, a cross section of the dam site, a cross section, plan, and elevation of the dam, a map of the spillway, a topographic map of the reservoir basin, and such other data and information as the division requires. If the plans receive the approval of the division, and upon examination the dam is found to be satisfactorily completed in accordance with such plans, the division shall certify the completion and capacity thereof to the county auditor. If the plans fail to meet the requirements of the division, the owner may submit revised plans, and when such revised plans have been approved and the dam rebuilt to conform to such plans, the completion of the dam and its capacity shall then be certified to the auditor who shall thereupon make such reduction in the assessed valuation of the contiguous land as such owner is entitled to receive under sections 1521.09 to 1521.12 of the Revised Code.

**Sec. 1521.13.** (A) Development in one-hundred-year floodplain areas shall be protected to at least the one-hundred-year flood level, and flood water conveyance shall be maintained, at a minimum, in accordance with standards established under the national flood insurance program. This division does not preclude a state agency or political subdivision from establishing flood protection standards that are more restrictive than this division.

(B) Prior to the expenditure of money for or the construction of buildings, structures, roads, bridges, or other facilities in locations that may be subject to flooding or flood damage, all state

agencies and political subdivisions shall notify and consult with the division of water resources and shall furnish information that the division reasonably requires in order to avoid the uneconomic, hazardous, or unnecessary use of floodplains in connection with such facilities.

(C) The chief of the division of water resources shall do all of the following:

(1) Coordinate the floodplain management activities of state agencies and political subdivisions with the floodplain management activities of the United States, including the national flood insurance program;

(2) Collect, prepare, and maintain technical data and information on floods and floodplain management and make the data and information available to the public, state agencies, political subdivisions, and agencies of the United States;

(3) Cooperate and enter into agreements with persons for the preparation of studies and reports on floods and floodplain management;

(4) Assist any county, municipal corporation, or state agency in developing comprehensive floodplain management programs;

(5) Provide technical assistance to any county, municipal corporation, or state agency through engineering assistance, data collection, preparation of model laws, training, and other activities relating to floodplain management;

(6) For the purpose of reducing damages and the threat to life, health, and property in the event of a flood, cooperate with state agencies, political subdivisions, and the United States in the development of flood warning systems, evacuation plans, and flood emergency preparedness plans;

(7) Upon request, assist the emergency management agency established by section 5502.22 of the Revised Code in the preparation of flood hazard mitigation reports required as a condition for receiving federal disaster aid under the "Disaster Relief Act of 1974," 88 Stat. 143, 42 U.S.C.A. 5121, as amended, and regulations adopted under it;

(8) Adopt, and may amend or rescind, rules in accordance with Chapter 119. of the Revised Code for the administration, implementation, and enforcement of this section and sections 1521.14 and 1521.18 of the Revised Code;

(9) Establish, by rule, technical standards for the delineation and mapping of floodplains and for the conduct of engineering studies to determine the vertical and horizontal limits of floodplains and for the assessment of development impacts on flood heights and flood conveyance. The standards established in rules adopted under this division shall be consistent with and no more stringent than the analogous standards established under the national flood insurance program.

(10) On behalf of the director of natural resources, administer section 1506.04 of the Revised Code.

In addition to the duties imposed in divisions (C)(1) to (10) of this section, and with respect to existing publicly owned facilities that have suffered flood damage or that may be subject to flood damage, the chief may conspicuously mark past and probable flood heights in order to assist in creating public awareness of and knowledge about flood hazards.

(D)(1) Development that is funded, financed, undertaken, or preempted by state agencies shall comply with division (A) of this section and with rules adopted under division (C)(9) of this section.

(2) State agencies shall apply floodproofing measures in order to reduce potential additional

flood damage of existing publicly owned facilities that have suffered flood damage.

(3) Before awarding funding or financing or granting a license, permit, or other authorization for a development that is or is to be located within a one-hundred-year floodplain, a state agency shall require the applicant to demonstrate to the satisfaction of the agency that the development will comply with division (A) of this section, rules adopted under division (C)(9) of this section, and any applicable local floodplain management resolution or ordinance.

(4) Prior to the disbursement of any state disaster assistance money in connection with any incident of flooding to or within a county or municipal corporation that is not listed by the chief as being in compliance under division (D)(1) of section 1521.18 of the Revised Code, a state agency that has authority to disburse such money shall require the county or municipal corporation to establish or reestablish compliance as provided in that division.

(E)(1) Subject to section 1521.18 of the Revised Code, a county or a municipal corporation may do all of the following:

(a) Adopt floodplain maps that reflect the best available data and that indicate the areas to be regulated under a floodplain management resolution or ordinance, as applicable;

(b) Develop and adopt a floodplain management resolution or ordinance, as applicable;

(c) Adopt floodplain management standards that exceed the standards that are established under the national flood insurance program.

(2) A county or municipal corporation shall examine and apply, where economically feasible, floodproofing measures in order to reduce potential additional flood damage of existing publicly owned facilities that have suffered flood damage.

(3) A county that adopts a floodplain management resolution shall do so in accordance with the procedures established in section 307.37 of the Revised Code. The county may enforce the resolution by issuing stop work orders, seeking injunctive relief, or pursuing other civil actions that the county considers necessary to ensure compliance with the resolution. In addition, failure to comply with the floodplain management resolution constitutes a violation of division (D) of section 307.37 of the Revised Code.

(4) No action challenging the validity of a floodplain management resolution adopted by a county or a floodplain management ordinance adopted by a municipal corporation, or an amendment to such a resolution or ordinance, because of a procedural error in the adoption of the resolution, ordinance, or amendment shall be brought more than two years after the adoption of the resolution, ordinance, or amendment.

**Sec. 1521.14.** Upon the written request of the director of natural resources, the attorney general shall bring an action for appropriate relief in a court of competent jurisdiction against any development that is not in compliance with the standards of the national flood insurance program and that is one of the following:

(A) Located in a county or municipal corporation that is not listed by the chief of the division of water resources as being in compliance under division (D)(1) of section 1521.18 of the Revised Code;

(B) Funded, financed, undertaken, or preempted by a state agency.

**Sec. 1521.15.** (A) The chief of the division of water resources shall develop and maintain, in cooperation with local, state, federal, and private agencies and entities, a water resources inventory

for the collection, interpretation, storage, retrieval, exchange, and dissemination of information concerning the water resources of this state, including, but not limited to, information on the location, type, quantity, and use of those resources and the location, type, and quantity of consumptive use and diversion of the water resources. The water resources inventory also shall include, without limitation, information to assist in determining the reasonableness of water use and sharing under common law, promoting reasonable use and development of water resources, and resolving water use conflicts.

All agencies of the state shall cooperate with the chief in the development and maintenance of the inventory.

(B) The chief shall cooperate with the other great lakes states and provinces to develop a common base of data regarding the management of the water resources of the Lake Erie drainage basin and to establish systematic arrangements for the exchange of those data.

**Sec. 1521.16.** (A) Any person who owns a facility that has the capacity to withdraw waters of the state in an amount greater than one hundred thousand gallons per day from all sources and whose construction is completed before January 1, 1990, shall register the facility by January 1, 1991, with the chief of the division of water resources, and any person who owns a facility that has the capacity to withdraw waters of the state in such an amount and whose construction is completed on or after January 1, 1990, shall register the facility with the chief within three months after the facility is completed. The person shall register the facility using a form prescribed by the chief that shall include, without limitation, the name and address of the registrant and date of registration; the locations and sources of the facility's water supply; the facility's withdrawal capacity per day and the amount withdrawn from each source; the uses made of the water, places of use, and places of discharge; and such other information as the chief may require by rule.

The registration date of any facility whose construction was completed prior to January 1, 1990, and that is registered under this division prior to January 1, 1991, shall be January 1, 1990. The registration date of any facility whose construction was completed prior to January 1, 1990, and that is required to register under this division prior to January 1, 1991, but that is not registered prior to that date, and the registration date of any facility whose construction was completed after January 1, 1990, and that is required to register under this division shall be the date on which the registration is received by the chief.

(B) In accordance with division (D) of this section, the chief shall adopt rules establishing standards and criteria for determining when an area of ground water is a ground water stress area, the geographic limits of such an area, and a threshold withdrawal capacity for the area below which registration under this division shall not be required. At any time following the adoption of those rules, the chief may by order designate an area of ground water as a ground water stress area and shall establish in any such order a threshold withdrawal capacity for the area below which registration under this division shall not be required.

Following the designation of a ground water stress area, the chief immediately shall give notice by publication in a newspaper of general circulation in the designated area that shall include a map delineating the designated ground water stress area and a statement of the threshold withdrawal capacity established for the area below which registration under this division shall not be required. The notice shall not appear in the legal notices section of the newspaper. Any person who owns a facility in the designated ground water stress area that is not registered under division (A) of this

section and that has the capacity to withdraw waters of the state in an amount greater than the threshold withdrawal capacity for the area from all sources shall register the facility with the chief not later than thirty days after publication of the notice. A person registering a facility under this division shall do so using a form prescribed by the chief. The form shall include the information specified in division (A) of this section.

(C) Any person who owns a facility registered under division (A) or (B) of this section shall file a report annually with the chief listing the amount of water withdrawn per day by the facility, the return flow per day, and any other information the chief may require by rule. Any person who, under Chapter 6109. of the Revised Code, provides such information to the Ohio environmental protection agency is exempt from reporting under this division. The director of environmental protection shall provide the chief any such reported information upon request.

(D) The chief shall adopt, and may amend or rescind, rules in accordance with Chapter 119. of the Revised Code to carry out this section.

(E)(1) No person knowingly shall fail to register a facility or file a report as required under this section.

(2) No person shall file a false report under this section. Violation of division (E)(2) of this section is falsification under section 2921.13 of the Revised Code.

(F) At the request of the director of natural resources, the attorney general may commence a civil action to compel compliance with this section, in a court of common pleas, against any person who has violated or is violating division (E)(1) of this section. The court of common pleas in which a civil action is commenced under this division has jurisdiction to and shall compel compliance with this section upon a showing that the person against whom the action is brought has violated or is violating that division.

Any action under this division is a civil action, governed by the rules of civil procedure and other rules of practice and procedure applicable to civil actions.

**Sec. 1521.18.** (A) For the purposes of this section, a one-hundred-year floodplain is limited to an area identified as a one-hundred-year floodplain in accordance with the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended.

(B) Each municipal corporation or county that has within its boundaries a one-hundred-year floodplain and that adopts a floodplain management ordinance or resolution or any amendments to such an ordinance or resolution on or after April 11, 1991, after adopting the ordinance, resolution, or amendments and before submitting the ordinance, resolution, or amendments to the federal emergency management agency for final approval for compliance with applicable standards adopted under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, shall submit the ordinance, resolution, or amendments to the chief of the division of water resources for the chief's review for compliance with those standards. Within forty-five days after receiving any such ordinance, resolution, or amendments, the chief shall complete the review and notify the municipal corporation or county as to whether the ordinance, resolution, or amendments comply with those standards. If the chief finds that the ordinance, resolution, or amendments comply with those standards, the chief shall forward it or them to the federal emergency management agency for final approval.

(C)(1) If the chief determines that a county or municipal corporation that has adopted a

floodplain management resolution or ordinance fails to administer or enforce the resolution or ordinance, the chief shall send a written notice by certified mail to the board of county commissioners of the county or the chief executive officer of the municipal corporation stating the nature of the noncompliance.

(2) In order to maintain its compliance status in accordance with division (D) of this section, a county or municipal corporation that has received a notice of noncompliance under division (C)(1) of this section may submit information to the chief not later than thirty days after receiving the notice that demonstrates compliance or indicates the actions that the county or municipal corporation is taking to administer or enforce the resolution or ordinance. The chief shall review the information and shall issue a final determination by certified mail to the county or municipal corporation of the compliance or noncompliance status of the county or municipal corporation. If the chief issues a final determination of noncompliance, the chief shall send a copy of that determination to the federal emergency management agency concurrently with mailing the notice to the municipal corporation or county.

(D)(1) A county or municipal corporation is considered to be in compliance for the purposes of this section if either of the following applies:

(a) The county or municipal corporation has adopted a floodplain management resolution or ordinance that the chief has determined complies with applicable standards adopted under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, and is adequately administering and enforcing it as determined under division (C) of this section.

(b) The county or municipal corporation is participating in the national flood insurance program and has not received a notice of noncompliance under division (B) or (C) of this section.

(2) The chief shall maintain a list of all counties and municipal corporations that have one-hundred-year floodplains within their boundaries. The list shall indicate whether each such county or municipal corporation is in compliance or noncompliance as provided in division (D)(1) of this section and whether each such county or municipal corporation is participating in the national flood insurance program. The chief shall provide a copy of the list to the general assembly and all state agencies annually and shall notify the general assembly and the agencies of any changes at least quarterly.

(E) Any county or municipal corporation that is adversely affected by any determination of the chief under this section may appeal it in accordance with Chapter 119. of the Revised Code not later than thirty days after the final determination.

**Sec. 1521.19.** (A) There is hereby created the Ohio water resources council consisting of the directors of agriculture, development, environmental protection, health, natural resources, transportation, and the Ohio public works commission, the chairperson of the public utilities commission of Ohio, the executive director of the Ohio water development authority, and an executive assistant in the office of the governor appointed by the governor. The governor shall appoint one of the members of the council to serve as its chairperson. The council may adopt bylaws that are necessary for the implementation of this section. The council shall provide a forum for policy development, collaboration and coordination among state agencies, and strategic direction with respect to state water resource programs. The council shall be assisted in its functions by a state agency coordinating group and an advisory group as provided in this section.

(B) The state agency coordinating group shall consist of the executive director of the Ohio Lake Erie commission and a member or members from each state agency, commission, and authority represented on the council, to be appointed by the applicable director, chairperson, or executive director. However, the environmental protection agency shall be represented on the group by the chiefs of the divisions within that agency having responsibility for surface water programs and drinking and ground water programs, and the department of natural resources shall be represented on the group by the chief of the division of soil and water resources. The chairperson of the council shall appoint a leader of the state agency coordinating group. The group shall provide assistance to and perform duties on behalf of the council as directed by the council.

(C) The advisory group shall consist of not more than twenty-four members, each representing an organization or entity with an interest in water resource issues. The council shall appoint the members of the advisory group. Of the initial appointments, not more than ten members shall be appointed for one-year terms, and not more than ten members shall be appointed for two-year terms. Of the four initial appointments made after April 6, 2007, two of the members shall be appointed for one-year terms, and two of the members shall be appointed for two-year terms. Thereafter, all advisory group members shall serve two-year terms. Members may be reappointed. Each member shall hold office from the date of the member's appointment until the end of the member's term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. The council may remove a member for misfeasance, nonfeasance, or malfeasance in office. The council shall appoint members to fill any vacancies on the group. A member appointed to fill a vacancy shall hold office for the remainder of the term for which that member was appointed.

The chairperson of the council shall appoint a chairperson of the advisory group. The advisory group shall advise the council on water resources issues addressed by the council.

(D) There is hereby created in the state treasury the Ohio water resources council fund. The department of natural resources shall serve as the fiscal agent for the fund. The departments of agriculture, development, environmental protection, health, natural resources, and transportation shall transfer moneys to the fund in equal amounts via intrastate transfer voucher. The public utilities commission of Ohio, Ohio public works commission, and Ohio water development authority may transfer moneys to the fund. If a voluntary transfer of moneys is made to the fund, the portion that is required to be transferred by the departments of agriculture, development, environmental protection, health, natural resources, and transportation may be equally reduced. Moneys in the fund shall be used to pay the operating expenses of the Ohio water resources council, including those specified in division (E) of this section.

(E) The Ohio water resources council may hire staff to support its activities. The council may enter into contracts and agreements with federal agencies, state agencies, political subdivisions, and private entities to assist in accomplishing its objectives. Advisory group members shall be reimbursed for expenses necessarily incurred in the performance of their duties pursuant to section 126.31 of the Revised Code and any applicable rules pertaining to travel reimbursement adopted by the office of budget and management.

**Sec. 1521.20.**

**Sec. 1522.03.** The chief of the division of water resources shall do all of the following:

(A) Adopt rules in accordance with Chapter 119. of the Revised Code for the implementation, administration, and enforcement of the great lakes-st. Lawrence river basin water resources compact;

(B) Enforce the great lakes-st. Lawrence river basin water resources compact and take appropriate actions to effectuate its purposes and intent;

(C) Adopt rules in accordance with Chapter 119. of the Revised Code for the development, implementation, administration, and enforcement of any permit program established under this chapter.

Rules adopted under this section shall be no more stringent than the great lakes-st. Lawrence river basin water resources compact. The chief shall convene a working group consisting of parties with interests in Lake Erie, the Lake Erie watershed, and the great lakes-st. Lawrence river basin water resources compact. The working group shall consult with the chief regarding the adoption of rules under this section.

**Sec. 1522.05.** Pursuant to Section 9.2 of the great lakes-st. Lawrence river basin water resources compact, the governor may take such actions as are necessary for the initial organization and operation of the great lakes-st. Lawrence river basin water resources council created in Section 2.1 of the compact. Agencies of the state are hereby authorized to cooperate with the council.

The chief of the division of water resources shall adopt voluntary watershedwide goals, objectives, and standards for water conservation and efficiency consistent with Section 4.2 of the great lakes-st. Lawrence river basin water resources compact.

**Sec. 1522.11.** (A) No person shall install or operate a facility or equipment that results in a new or increased diversion of any water out of the Lake Erie watershed to another watershed without first obtaining a permit to do so issued by the chief of the division of water resources. An application for such a permit shall be submitted to the chief on a form that the chief prescribes. An application shall be accompanied by a nonrefundable fee of one thousand dollars, which shall be credited to the water management fund created in section 1501.32 of the Revised Code.

(B) The chief shall approve a permit application submitted under this section only if the chief determines that it meets the criteria required to qualify as an exception to the prohibition against diversions established in Section 4.9 of the compact. The chief shall issue or deny a permit through issuance of an order.

**Sec. 1522.12.** (A) For purposes of the compact, not later than one hundred eighty days after September 4, 2012, the chief of the division of water resources shall establish a program for the issuance of permits for the withdrawal and consumptive use of water from the Lake Erie watershed. Upon establishment of the program, the owner or operator of a facility within the Lake Erie watershed that is not otherwise exempt under section 1522.14 of the Revised Code shall obtain a withdrawal and consumptive use permit from the chief if the facility meets any of the following threshold criteria:

(1) The facility has a new or increased capacity for withdrawals or consumptive uses from Lake Erie or a recognized navigation channel of at least two and one-half million gallons per day.(2) Except as provided in division (A)(3) of this section, the facility has a new or increased capacity for withdrawals or consumptive uses from any river or stream or from ground water in the Lake Erie watershed of at least one million gallons per day.

(3)(a) Except as provided in division (A)(3)(b) of this section, the facility has a new or



increased capacity for withdrawals or consumptive uses from any river or stream in the Lake Erie watershed that is a high quality water of at least one hundred thousand gallons per day. Division (A)(3) of this section does not apply to withdrawals and consumptive uses from outstanding state waters that are designated as such by the environmental protection agency due to their exceptional recreational values.

(b) If a river or stream or segment thereof is designated as a high quality water as of September 4, 2012, the threshold established in division (A)(3)(a) of this section applies to the river or stream or segment thereof and the entire watershed upstream of that river, stream, or segment. If a river or stream or segment thereof is designated as a high quality water after September 4, 2012, the threshold established in division (A)(3)(a) of this section applies to the river or stream or segment thereof and the entire watershed upstream of that river, stream, or segment, provided that the director of environmental protection and the director of natural resources, or their designees, jointly determine that the proposed withdrawal or consumptive use would cause the high quality water to lose its designation as a high quality water. If the directors determine that the proposed withdrawal or consumptive use would not cause the high quality water to lose that designation, the threshold established in division (A)(2) of this section applies to the withdrawal or consumptive use at a point beginning one thousand feet upstream of the upstream end of the designated high quality water segment or at a point beginning two times the length of the river, stream, or segment that has been designated as a high quality water, whichever is greater.

Upon establishment of the withdrawal and consumptive use permit program under this division, the owner or operator of a facility that is not otherwise exempt under section 1522.14 of the Revised Code and that is subject to a threshold specified in division (A)(1) or (2) of this section, after submitting an application for a permit under this section and a determination by the chief that the application is complete, may commence installation of the facility or equipment that will result in a new or increased withdrawal or consumptive use of water in the Lake Erie watershed prior to issuance of the withdrawal and consumptive use permit.

Upon establishment of the withdrawal and consumptive use permit program under this division, the owner or operator of a facility that is not otherwise exempt under section 1522.14 of the Revised Code and that is subject to a threshold specified in division (A)(3) of this section shall not install or operate the facility or equipment that will result in a new or increased withdrawal or consumptive use of water in the Lake Erie watershed without first obtaining a withdrawal and consumptive use permit.

(B) Permits issued under this section shall be issued only for the amount of withdrawal or consumptive use capacity of a facility that meets or exceeds threshold amounts established in division (A) of this section. A permit shall not be required for the portion of the withdrawal and consumptive use capacity of the facility below that threshold amount.

(C) An applicant for a permit shall submit an application to the chief on a form that the chief prescribes. The applicant shall include with the application all of the following:

(1) The name, address, and telephone number of the applicant and of a contact person for the applicant;

(2) The names, addresses, and other necessary contact information of any other owners and operators of the facility;

- (3) A description of all of the following:
- (a) The facility's current withdrawal capacity per day if the withdrawal is to occur at a facility already in operation;
  - (b) The total new or increased daily withdrawal capacity proposed for the facility;
  - (c) The locations and sources of water proposed to be withdrawn;
  - (d) The locations of proposed discharges or return flows;
  - (e) The locations and nature of proposed consumptive uses and the applicable consumptive use coefficient for the facility;
  - (f) The estimated average annual and monthly volumes and rates of withdrawal;
  - (g) The estimated average annual and monthly volumes and rates of consumptive use;
  - (h) The environmentally sound and economically feasible water conservation measures to be undertaken by the applicant;
  - (i) Other ways the applicant's need for water may be satisfied if the application is denied or modified;
  - (j) Any other information the chief may require to adequately consider the application.
- (4) A nonrefundable application fee of one thousand dollars, the proceeds of which shall be credited to the water management fund created in section 1501.32 of the Revised Code.
- (D) Provided that a facility meets all applicable permit conditions, a permit for the facility is valid until the facility is the subject of facility abandonment. Once every five years, the owner or operator of a facility shall certify to the chief that the facility is in compliance with the permit that has been issued for the facility.
- (E) No person that is required to do so shall fail to apply for and receive a withdrawal and consumptive use permit.
- (F) A permit issued under this section shall include terms and conditions restricting the withdrawal and consumptive use by a facility to amounts not exceeding the capacity of the facility.
- (G) The chief shall issue or deny a permit not later than ninety days after receipt of a complete application. If applicable, the chief shall comply with the requirements regarding prior notice established in Section 4.6 of the compact. The chief shall issue or deny a permit through issuance of an order. The chief shall issue a permit if all applicable criteria for receiving the permit are met as provided in sections 1522.10 to 1522.21 of the Revised Code.
- Sec. 1522.13.** (A) The chief of the division of water resources shall issue a withdrawal and consumptive use permit for a facility if the chief determines that the facility meets all of the criteria established in Section 4.11 of the compact.
- (B) In applying the provision of the decision-making standard established in Section 4.11.2 of the compact, the chief shall require that a withdrawal or consumptive use will be implemented so as to ensure that the withdrawal or consumptive use will result in no significant individual or cumulative adverse impacts on the quantity or quality of the waters and water dependent natural resources of the great lakes basin considered as a whole or of the Lake Erie source watershed considered as a whole. As part of the evaluation of a permit application under Section 4.11.2 of the compact, the chief shall do all of the following:
- (1) Rely on the best generally accepted scientific methods appropriate for this state derived from professionally accepted resources and practices;

(2) Consider the long-term mean annual inflow and outflow of the Lake Erie source watershed;

(3) Consider the withdrawal and the portion of the withdrawal that is not returned to the Lake Erie source watershed.

(C) Impacts of a withdrawal or consumptive use on the quantity or quality of waters and water dependent natural resources of more localized areas that affect less than the great lakes basin considered as a whole or the Lake Erie source watershed considered as a whole shall be considered as a part of the evaluation of whether a proposed withdrawal or consumptive use is reasonable as provided in Section 4.11.5 of the compact.

(D) The chief shall not submit an application for a withdrawal and consumptive use permit for regional review under Section 4.5.2(c)(ii) of the compact to the regional body as defined in Section 1.2 of the compact unless regional review is agreed to by the applicant.

(E) Nothing in sections 1522.10 to 1522.21 of the Revised Code shall be construed to affect, limit, diminish, or impair any rights validly established and existing under the laws of this state as of December 8, 2008, including, but not limited to, sections 1506.10 and 1521.17 of the Revised Code, or to limit a person's right to the reasonable use of ground water, water in a lake, or any other watercourse in contravention of Section 19b of Article I, Ohio Constitution.

**Sec. 1522.131.** (A) To encourage the development of innovative water use practices and technologies that ensure sustainable water use for industrial, commercial, residential, agricultural, or public purposes, including recreational and cultural resources, as a means to facilitate sustainable economic growth and job creation, the chief of the division of water resources, with the approval of the director of natural resources, may issue experimental use permits. An experimental use permit may be issued in lieu of a withdrawal and consumptive use permit as determined appropriate by the chief.

(B) An experimental use permit may be issued if all of the following apply:

(1) The experimental use is reasonable based on a consideration of the factors specified in Section 4.11.5 of the compact.

(2) The experimental use will use no more water than is necessary to determine the effectiveness and economic feasibility of the experimental use.

(3) The experimental use does not reduce the protection afforded the waters and water dependent natural resources of the source watershed as defined in the compact below what is provided in this chapter and rules adopted under it.

(C) The chief may refuse to issue an experimental use permit if the chief determines that the proposed use will result in significant individual or cumulative adverse impacts on the quantity or quality of the waters and water dependent natural resources of the great lakes basin considered as a whole or the Lake Erie source watershed considered as a whole.

(D) The chief shall issue or deny a permit under this section through issuance of an order.

(E) The chief shall establish the terms and conditions of an experimental use permit and may suspend such a permit, at any time, if the chief finds that its terms or conditions are being violated or that its terms and conditions are inadequate to avoid significant individual or cumulative adverse impacts on the quantity or quality of the waters and water dependent natural resources of the great lakes basin considered as a whole or the Lake Erie source watershed considered as a whole.

(F) An experimental use permit issued under this section shall expire not later than twenty-four months after the date of issuance of the permit.

**Sec. 1522.15.** (A)(1) Transfer of a withdrawal and consumptive use permit upon the sale or transfer of a facility may occur so long as the location of the facility, the source of water, and the withdrawal and consumptive use capacities do not change. Transfer of the baseline withdrawal and consumptive use capacity of a baseline facility upon the sale or transfer of the baseline facility may occur so long as the location of the facility, the source of water, and the withdrawal and consumptive use capacities do not change. Transferred capacity of a baseline facility does not require a withdrawal and consumptive use permit.

Notice of a transfer shall be provided to the chief of the division of water resources in a manner prescribed by the chief.

(2) If the owner of a facility for which a withdrawal and consumptive use permit has been issued sells or transfers a portion of the facility, transfer of the applicable portion of the withdrawal and consumptive use capacity authorized by the withdrawal and consumptive use permit may occur so long as the location of the facility, the source of water, and the total withdrawal and consumptive use capacities do not change. The permittee shall provide notice of such a transfer to the chief in a manner prescribed by the chief. Upon receipt of the notice and if a permit is required for the transferred portion based on the threshold amounts established in divisions (A)(1) to (3) of section 1522.12 of the Revised Code, the chief shall issue a new permit for the transferred portion of the facility to the transferee and a modified permit for the remaining portion of the facility to the original permittee upon a showing that the transferee will meet the conditions of the original permit and all applicable requirements of this chapter and rules adopted under it. Any new permit shall reflect the portion of the withdrawal and consumptive use capacity that has been transferred.

(3) If the owner of a baseline facility sells or transfers a portion of the baseline facility, transfer of the applicable portion of the withdrawal and consumptive use capacity listed in the baseline report for that facility may occur so long as the location of the facility, the source of water, and the total withdrawal and consumptive use capacities do not change. The owner shall provide notice of such a transfer to the chief in a manner prescribed by the chief. The chief shall not require the owner of the baseline facility or the transferee to obtain a withdrawal and consumptive use permit, but shall update the baseline report to reflect the transfer.

(4) The chief may deny a transfer under this section by issuing an order denying the transfer and sending written notice to the permittee and the transferee not later than thirty days after notice of the intended transfer. The chief shall deny the transfer if the chief determines that the transfer will result in noncompliance with this chapter, rules adopted under it, or the terms and conditions of a withdrawal and consumptive use permit.

(5) The chief shall remove a facility from the baseline report when the facility is subject to baseline facility abandonment. However, a baseline facility shall not be removed from the baseline report due to the transfer of the facility's baseline capacity.

(B) No person shall sell or transfer a withdrawal and consumptive use permit for purposes of evading the requirements established in sections 1522.10 to 1522.21 of the Revised Code.

**Sec. 1522.16.** (A)(1) The owner or operator of a facility may petition the chief of the division of water resources for either of the following:

(a) Inclusion in the baseline report if the owner or operator believes that the facility was erroneously excluded from the report;

(b) The amendment of the amount of a withdrawal and consumptive use or other information included in the baseline report regarding the facility if the owner or operator believes that the information is incorrect.

(2) The chief shall issue an order either approving or disapproving a petition submitted under this section. The chief shall issue the order based on a thorough examination of the circumstances concerning the petition.

(3) The chief shall adopt rules in accordance with Chapter 119. of the Revised Code that establish procedures for the submission of petitions under this division.

(B) With regard to the nonuse of a baseline facility's or a facility's withdrawal and consumptive use capacity, not later than sixty days after the time period specified in division (B)(1) or (2) or (I)(1) or (2) of section 1522.10 of the Revised Code, the owner or operator of the facility may request an extension from the chief to retain the facility's active status. The request shall be made in a manner prescribed by the chief. The chief shall determine the appropriate terms and conditions of the extension, if approved, based on information submitted by the owner or operator. The chief shall issue an order approving or disapproving the request and shall do so in a manner prescribed by the chief.

**Sec. 1522.17.** (A) The owner or operator of a facility who is applying for a withdrawal and consumptive use permit shall submit to the chief of the division of water resources a facility water conservation plan that incorporates environmentally sound and economically feasible water conservation measures in accordance with Section 4.11.3 of the compact. If the plan reasonably incorporates environmentally sound and economically feasible water conservation measures applicable to the facility, it shall be deemed to be in compliance with Section 4.11.3 of the compact.

(B) The chief shall keep confidential any portions of a facility water conservation plan that constitute a trade secret as defined in section 1333.61 of the Revised Code as follows:

(1) During the period of time after confidentiality is requested under division (C) of this section and until the chief makes a determination to approve or disapprove the request;

(2) On and after the date on which the chief approves a request for confidentiality under division (C) of this section.

Any portions of a facility water conservation plan that are kept confidential as provided in this division are not subject to section 149.43 of the Revised Code.

(C)(1) The owner or operator of a facility may request that any portions of a facility water conservation plan be kept confidential. The request for confidentiality shall be submitted at the same time that an owner or operator submits a facility water conservation plan under division (A) of this section. The owner or operator shall clearly indicate the information that the owner or operator considers a trade secret and shall label it as "trade secret." Failure to make such a request shall constitute a waiver of the right to prevent public disclosure of the information. A request for confidentiality shall be accompanied by documents that support the request. The documents shall describe the measures that the requestor has taken to safeguard the confidentiality of the information and indicate whether or not others are bound by a confidentiality agreement related to the information.

(2) The chief, by order, shall issue a decision regarding the confidentiality request not later than forty-five days after the receipt of the request. Until the decision is issued, the information that is the subject of the request shall be confidential and maintained by the chief in a separate file labeled "confidential." The applicant shall be notified by mail of the decision.

**Sec. 1522.18.** The chief of the division of water resources, on the chief's own initiative or upon written complaint by any person, may investigate or make inquiries into any alleged failure to comply with this chapter, any rule adopted under it, any order issued under it, or the terms and conditions of a permit issued under it. The chief or the chief's duly authorized representative may enter at reasonable times on any private or public property to inspect and investigate conditions relating to any such alleged act of noncompliance and, if necessary, may apply to the court of common pleas having jurisdiction for a warrant permitting the entrance and inspection.

**Sec. 1522.20.** (A)(1) The chief of the division of water resources may issue an order to a person that the chief determines has violated, is violating, or is threatening to violate any provisions of this chapter, rules adopted under it, or permits or orders issued under it. The order shall be effective upon issuance and shall identify the facility where the violation has occurred, is occurring, or is threatened to occur, the specific violation, and actions that the owner or operator of the facility must take to comply with the order. The order shall establish a reasonable date by which the owner or operator must comply with the order.

(2) An order issued under division (A)(1) of this section shall be in writing and shall contain a finding of the facts on which the order is based. Notice of the order shall be given by certified mail to the applicable owner or operator of a facility. Notice also shall be provided to a person who initiated a complaint that resulted in the order and shall be posted on the web site of the department of natural resources in a manner prescribed by the chief.

(B)(1) The chief, by order, may propose to suspend or revoke a permit issued under this chapter if the chief determines that any term or condition of the permit is being violated. The chief's order shall identify the facility where the violation allegedly occurred, describe the nature of the violation, and prescribe what action the permittee may take to bring the facility into compliance with the permit. The chief shall fix and specify in the order a reasonable date or time by which the permittee must comply. The order shall state that the chief may suspend or revoke the permit if the permittee fails to comply with the order by that date or time. If on that date or time the chief finds that the permittee has not complied with the order, the chief may issue a new order suspending or revoking the permit.

(2) The chief or the chief's designee may enter on private or public lands and take action to mitigate, minimize, remove, or abate the conditions caused by a violation that is the subject of an order issued under division (B)(1) of this section.

(C) The attorney general, upon written request of the chief, shall bring an action for an injunction or other appropriate legal or equitable action against any person who has violated, is violating, or is threatening to violate any provision of this chapter, any rule or order adopted or issued under it, or any term or condition of a permit issued under it. The attorney general shall bring the action in the court of common pleas of Franklin county or the county where the applicable facility is located. In an action for injunction, any factual findings of the chief presented at a hearing conducted under division (A) of section 1522.21 of the Revised Code is prima-facie evidence of the facts

regarding the order that is the subject of the hearing.

(D) A person who violates any provision of this chapter, any rule or order adopted or issued under it, or any term or condition of a permit issued under it is liable to the chief for any costs incurred by the division of water resources in investigating, mitigating, minimizing, removing, or abating the violation and conditions caused by it. Upon the request of the chief, the attorney general shall bring a civil action against the responsible person to recover those costs in the court of common pleas of Franklin county. Moneys recovered under this division shall be deposited in the state treasury to the credit of the water management fund created in section 1501.32 of the Revised Code.

**Sec. 1522.21.** (A) As used in this section, "person who is or will be aggrieved or adversely affected" means a person with a direct economic or property interest that is or will be adversely affected by an order or rule issued or adopted by the chief of the division of water resources under this chapter.

(B)(1) Before issuance of a final order denying the issuance of a permit under section 1522.11, 1522.12, or 1522.131 of the Revised Code, denying a transfer under section 1522.15 of the Revised Code, denying a petition to the chief under section 1522.16 of the Revised Code, or denying a request for confidentiality under section 1522.17 of the Revised Code, or before the issuance of a final order under section 1522.20 of the Revised Code, the chief shall issue a proposed order indicating the chief's intent to issue a final order. If the chief receives a written objection from a person who is or will be aggrieved or adversely affected by the issuance of the final order, the chief shall conduct an adjudication hearing with respect to the proposed order in accordance with Chapter 119. of the Revised Code. A person who is or will be aggrieved or adversely affected by the issuance of the final order and who submitted a written objection under this division may be a party to the adjudication.

(2) Any person who is issued a proposed order or a final order by the chief shall be a party in any administrative or legal proceeding in which the proposed order or final order is at issue. This division is in addition to any other rights that a person may have as a person aggrieved or adversely affected.

(C)(1) After the issuance of a final order, a person who is or will be aggrieved or adversely affected by the issuance of the order may appeal the order to the court of common pleas of Franklin county or the court of common pleas of the county in which the facility that is the subject of the order is located. Subject to the exceptions specified in section 2506.03 of the Revised Code, the court is confined to the record as certified to it by the chief if an adjudication hearing was conducted by the chief under division (B) of this section. However, the court also may grant a request for the admission of additional evidence when satisfied that the additional evidence is newly discovered and could not with reasonable diligence have been ascertained prior to the hearing before the chief. If no adjudication hearing was conducted under division (B) of this section, the court shall conduct a hearing de novo.

(2) The filing of an appeal under division (C)(1) of this section does not automatically suspend the order that is the subject of the appeal. Upon application by the appellant, the court may suspend or stay the order, pending an immediate hearing on the appeal.

(3) If the court finds that the order was lawful and reasonable, it shall issue a written order affirming the order. If the court finds that the order was unreasonable or unlawful, it shall issue a

written order vacating or modifying the order. The judgment of the court is final unless reversed, vacated, or modified on appeal.

(4) Attorney's fees shall not be awarded to any party to an administrative or legal proceeding under this section.

**Sec. 1523.01.** In addition to all other powers granted to and duties devolving upon the chief of the division of soil and water resources, when in the chief's judgment it is for the public welfare and the best interests of the citizens of the state that the surplus, flood, and other waters of any of the watersheds, rivers, streams, watercourses, or public waters should be conserved, impounded, and stored in order to insure and promote the public health, welfare, and safety and to encourage and promote agriculture, commerce, manufacturing, and other public purposes, such chief shall proceed in furtherance of the purposes of sections 1523.01 to 1523.13 of the Revised Code, and for the preservation of the use of such waters for navigation, in case such waters are required for navigation, to construct such reservoirs, dams, storage basins, dikes, canals, raceways, and other improvements as are necessary for such purposes, or the chief may make additions to, enlarge, and make alterations in and upon such reservoirs, dams, storage basins, dikes, canals, raceways, and other improvements already in existence and constituting a part of the public works, as are necessary for such purposes. Any rights or privileges granted by sections 1523.01 to 1523.13 of the Revised Code, shall not interfere with the control and maintenance of the state reservoirs or public parks which have been dedicated to the public for purposes of recreation and pleasure.

The chief, subject to the written approval of the director of natural resources and the governor, may acquire by gift, purchase, or by appropriation proceedings, in the name of and on behalf of the state, such real and personal property, rights, privileges, and appurtenances as are necessary in the chief's judgment for the construction of such reservoirs, dams, storage basins, dikes, canals, raceways, and other improvements, or for the alteration, enlargement, or maintenance of existing reservoirs, dams, and other improvements, together with such rights of way, drives, and roadways as are necessary for convenient access thereto. The appropriation proceedings referred to in this section shall be restricted to private property only.

Before proceeding to purchase or appropriate any such property or rights, the cost of which, together with the land or real estate necessary upon which to locate and construct such improvements, including damages to remaining property, is in excess of one thousand dollars, the chief shall prepare plans, specifications, and estimates of such cost, including all material and labor therefor, together with the cost of such land or real estate and damages, and shall thereupon submit such plans, specifications, and estimates to the director, who in turn shall submit them to the governor for approval.

The governor shall thereupon publish written notice once a week for two consecutive weeks in a newspaper published in and of general circulation in the counties where any such improvements are proposed to be constructed, setting forth the location and character of the proposed improvements, that the plans, specifications, and estimates therefor are on file in the governor's office, and that objections thereto will be heard by the governor on a day to be named in the notice, which day shall be not less than ten nor more than twenty days after the first publication thereof. Within thirty days after the date fixed for the hearing, the governor shall return such plans, specifications, and estimates to the director, with the governor's written approval or rejection thereof.



indorsed thereon. The director shall immediately return such plans, specifications, and estimates, together with the governor's indorsement thereon, to the chief.

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

**Sec. 1523.02.** If the governor approves the plans, specifications, and estimates authorized by section 1523.01 of the Revised Code, the chief of the division of soil and water resources shall thereupon proceed, as provided in sections 1523.02 to 1523.13 of the Revised Code, to construct the improvements or to make alterations in or to enlarge those already existing, in such manner and form as is shown by such plans and specifications. In order to provide the funds for such construction, alteration, or enlargement, the chief shall issue and sell bonds of the state, not in excess of the estimated cost of such improvements. The bonds shall be issued in denominations of not less than one hundred dollars payable as a whole or in series on or before fifty years from the date thereof, with interest not to exceed the rate provided in section 9.95 of the Revised Code, payable either annually or semiannually.

The bonds shall show on their face the purpose for which issued and shall create no liability upon or be considered an indebtedness of the state, but both the principal and interest shall be paid solely out of the proceeds arising from the improvements constructed, altered, or enlarged by the chief, or from the proceeds of the sale or foreclosure of the lien securing the bonds on such improvement or such part thereof as is constructed from the money realized from the sale of the bonds.

The form of the bonds shall be approved by the attorney general, and they shall be signed by the governor and attested by the director of natural resources and the chief. The bonds may be issued as coupon bonds, payable to bearer only, or upon demand of the owner or holder thereof as registered bonds.

Such bonds shall be sold by the chief to the highest bidder therefor, but for not less than the par value thereof, with accrued interest thereon, after thirty days' notice in at least two newspapers of general circulation in the county where such improvements are to be constructed, altered, or enlarged, setting forth the nature, amount, rate of interest, and length of time the bonds have to run, with the time and place of sale.

The treasurer of state shall be the treasurer of the fund realized from the sale of such bonds, and the auditor of state shall be the auditor of such fund. The proceeds of such sale shall be turned over to the treasurer of state and shall be deposited by the treasurer of state in a solvent bank, located either in Columbus or in the county in which such improvements are located. Such proceeds shall be kept by such bank in a fund to be known as the water conservation improvement fund. Such fund shall be used to acquire the necessary real estate and to construct such new improvements and for no other purpose, except that the treasurer of state may pay the interest on the bonds during the period of condemnation and the construction, alteration, or enlargement of such improvements out of the proceeds arising from the sale of the bonds for a term not exceeding three years from the date on which the bonds are issued. The bank shall give bond to the state in such amount as the treasurer of state considers advisable, and with surety to the satisfaction of the treasurer of state, for the benefit of the holders of the bonds, and for the benefit of any contractors performing labor or furnishing

material for such improvements, as provided by law, conditioned that it will safely keep the money and will make no payments or disbursements therefrom except as provided in sections 1523.01 to 1523.13 of the Revised Code.

The treasurer of state shall hold such fund as trustee for the holders of the bonds and for all persons performing labor or furnishing material for the construction, alteration, or enlargement of any improvement made under such sections. Such funds shall not be turned into the state treasury, but shall be deposited and disbursed by the treasurer of state as provided in such sections. The interest coupons attached to such bonds shall bear the signature of the treasurer of state, executed by the treasurer of state or printed or lithographed thereon.

Both the interest and principal of such bonds shall be made payable at the office of the treasurer of state in Columbus, and shall be paid by the treasurer of state, without warrant or authority of the director of budget and management, to the owner or holder of such bonds upon presentation by the owner or holder of matured interest coupons or bonds.

**Sec. 1523.03.** Immediately after the sale of the bonds authorized by section 1523.02 of the Revised Code and the payment of the proceeds thereof to the treasurer of state as provided in such section, the chief of the division of soil and water resources shall make a written contract for the construction of the improvements or for the making of additions to or alterations in existing improvements with the lowest responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, after advertisements once a week for four consecutive weeks in one newspaper in each of the cities of Columbus, Cleveland, and Cincinnati having a general circulation therein, one trade paper having a circulation among contractors engaged in the construction of public improvement work of like character, and two newspapers having a general circulation within the county in which the dam, reservoir, storage basin, or other improvement is located or is to be located.

All bids shall be filed with the chief, within the time fixed for the filing of such bids in the advertisement. The bids shall be opened and publicly read by the chief at twelve noon on the last day for filing them. Each bid shall contain the full names of every person or company interested in it, shall separately state the price of both the labor and material to be furnished under it, and shall meet the requirements of section 153.54 of the Revised Code.

The chief may reject any bids. If the chief rejects all bids, the chief shall within sixty days thereafter readvertise for bids for the construction of such improvements, as provided in this section, and may continue to readvertise for bids every sixty days until bids are received which are made to the chief's satisfaction and in conformity to sections 1523.01 to 1523.13 of the Revised Code.

The chief may award separate contracts to bidders for each part of the labor to be done or material to be furnished for the construction of such improvements, provided that the amount of the contract, if awarded as a whole, or the aggregate of the several contracts, if awarded separately, shall not, together with the cost of the land necessary for such improvements and the estimated damages to remaining property, be in excess of the estimated cost of the construction thereof, including such land and damages. Such contracts shall provide that all payments thereunder shall be made only from the proceeds of the sale of the bonds issued for the construction of such improvements. No contractor shall receive payment for any work or labor performed or material furnished for such improvements unless the contract therefor was, at the time of its execution, approved by the governor by the governor's written indorsement on such contract.

**Sec. 1523.04.** When estimates or statements for either material theretofore furnished or labor theretofore performed under a contract entered into as provided in section 1523.03 of the Revised Code are presented to the chief of the division of soil and water resources by the contractor, certified as to the correctness thereof under oath by the contractor or the contractor's authorized agent and approved in writing by the chief, the chief shall pay the amount of such estimates or statements from the water conservation improvement fund.

**Sec. 1523.05.** The chief of the division of soil and water resources shall by contract in writing sell or lease for agricultural, commercial, manufacturing, or other lawful purposes, for any term not exceeding fifty years, the water, or any part thereof, conserved and stored by the improvements then existing, or that will be conserved and stored by any improvements thereafter to be constructed by the chief. The chief may lease the land surrounding the water for a term not exceeding fifty years, as shown by the plans and specifications prepared by the chief and approved by the governor as provided in section 1523.01 of the Revised Code. Such agreements shall be for a certain price or rental for the water or lands furnished to or used by the grantees, lessees, or their assigns, to be paid quarterly, semiannually, or annually as the chief deems advisable.

The chief may, for a term not exceeding fifty years, sell or lease power generated by any head of water raised or maintained by any such improvement, or the chief may sell or lease the right to use such head of water for generating power or other hydraulic purposes.

All such contracts of sale or lease, whether for water or power, shall contain such reservations or restrictions as the chief deems necessary and proper in furtherance of the purposes of sections 1523.01 to 1523.13 of the Revised Code, and the preservation of the use of such waters for navigation in case they are required therefor.

Such contracts or leases shall be approved by the attorney general as to their general form and legality and, before becoming binding obligations on the state, they shall be approved by the governor by the governor's written indorsement thereon.

**Sec. 1523.06.** (A) The chief of the division of soil and water resources before selling bonds as provided in section 1523.02 of the Revised Code or before receiving bids for the construction of improvements as authorized by section 1523.03 of the Revised Code may enter into tentative agreements for the sale or lease of water or power to:

(1) Ascertain whether the public interest and welfare reasonably require the proposed improvements in the proposed locality;

(2) Determine whether the revenues which the state may derive from the lease of lands and the lease and sale of the waters which are estimated will be conserved, impounded, and stored, or from the sale or lease of the power generated by such improvements, will be sufficient:

(a) To pay the interest on bonds issued under section 1523.02 of the Revised Code;

(b) To create a sinking fund to retire the bonds at their maturity;

(c) To maintain and keep the improvements in repair.

(B) The performance and carrying out of such tentative agreements shall be conditioned upon the ability of such chief to:

(1) Sell the proposed bonds at not less than par and accrued interest;

(2) Secure bids for the furnishing of all the labor and material necessary in the construction of such improvements, including all real estate required and damages incurred, at such a price that the

rentals or compensation to be paid will provide during the terms of such contracts or leases a sum sufficient to pay the interest, retire the bonds, and maintain and keep the improvements in repair.

**Sec. 1523.07.** The treasurer of state shall be treasurer and the auditor of state shall be auditor of all moneys derived from the use of the improvements authorized by sections 1523.01 to 1523.13 of the Revised Code. The treasurer of state shall hold the moneys as trustee for the maintenance of any improvements constructed under such sections, and for the holders of any bonds issued in accordance with section 1523.02 of the Revised Code. The moneys shall not be turned into the state treasury, but shall be deposited and disbursed by the treasurer of state in the manner provided in this section. All such moneys shall be collected by the treasurer of state on statements to be furnished by the chief of the division of soil and water resources and when so collected shall be deposited in solvent banks in the state upon the same terms as state funds are now loaned. The funds shall be kept by such banks in a fund known as the "water conservation fund" and shall be used, first, to maintain and keep in repair the dams, reservoirs, storage basins, and other improvements, and, second, to pay the interest upon and principal of the bonds issued and sold pursuant to section 1523.02 of the Revised Code, as such interest falls due or the bonds mature.

The banks in which the treasurer of state deposits any of the moneys belonging either to the water conservation improvement fund provided for in section 1523.02 of the Revised Code or the water conservation fund provided for in this section shall be state depository banks as provided for in sections 135.01 to 135.21 of the Revised Code. An amount not to exceed fifty thousand dollars of the money on deposit at any one time in the water conservation improvement fund, and an amount not to exceed ten thousand dollars in the water conservation fund shall be held by any of the banks as an active deposit, and the banks shall pay the treasurer of state on such deposits, both active and inactive, the same rate of interest then being paid by them upon the funds of the state then deposited with them by the treasurer of state. All such payments of interest shall be credited to the respective funds upon which such interest is paid.

**Sec. 1523.08.** When the cost of any repairs to the improvements authorized by section 1523.01 of the Revised Code does not exceed one thousand dollars, the chief of the division of soil and water resources either may make such repairs or may let a contract therefor without advertising for bids. If the cost of any such repairs is in excess of one thousand dollars, the chief shall advertise for bids for the making of such repairs and let a contract therefor as provided in section 1523.03 of the Revised Code.

When itemized statements are presented to the chief showing the amount of labor performed and material furnished in the making of such repairs, verified by the person making them and approved in writing by the chief, the chief shall pay the amount of such statement from the water conservation fund.

**Sec. 1523.09.** If a reservoir, dam, storage basin, or other improvement constructed or enlarged by the chief of the division of soil and water resources as provided in sections 1523.01 to 1523.13 of the Revised Code constitutes a part of the canal system of the state or is located upon any river, stream, or body of water formerly used as a feeder for the canal system, no water shall be sold or leased from the improvement except in accordance with section 1520.03 of the Revised Code.

**Sec. 1523.10.** The funds derived from the sale, use, or lease of the water impounded and conserved or the power generated by the improvements constructed pursuant to sections 1523.01 to

1523.13 of the Revised Code, or from the lease of the lands and improvements adjacent thereto are hereby expressly pledged for the purpose of maintaining and keeping the improvements in repair and for the payment of the interest on and principal of the bonds issued under section 1523.02 of the Revised Code, as the same fall due and mature. The owners of such bonds are hereby given a lien for the payment of the principal and interest of such bonds upon any dam, reservoir, storage basin, or other improvements, or any part thereof, with the appurtenances belonging thereto, constructed by the chief of the division of soil and water resources with the funds derived from the sale of such bonds.

If default is made in the payment of the interest on any of the bonds for three or more successive years, or if bonds, aggregating in par value not less than ten per cent of the total amount of such bonds then outstanding are not paid at maturity, then all of the bonds, both principal and interest, shall become due and payable, and the owners of any of the bonds, aggregating in par value not less than ten per cent of the total amount of such bonds then outstanding, may institute proceedings to foreclose such lien against the state in the court of common pleas of the county in which is located any of the improvements, constructed, altered, or enlarged out of the proceeds of the sale of such bonds.

The court shall have jurisdiction of such action with full power to foreclose such lien and to make an order to the sheriff of the county, acting as a master commissioner, directing the sheriff to make a sale of such improvements or part thereof at not less than two-thirds of the appraised value thereof, and upon such terms and in manner and form as provided for in the order, and to pay the proceeds of such sale to the clerk of the court of common pleas. Upon motion of the purchaser of such improvements at such sale, the court, if such sale is found to be regular in all respects and according to law, shall confirm the sale and order the sheriff to execute a deed to such purchaser and the purchaser's assigns, conveying to the purchaser and the purchaser's assigns all the right, title, and interest of the holders of the bonds in and to the improvements, and all the right, title, and interest of the state, for a period of not more than fifty years from the date of such conveyance, in the same, with full right and franchise, for the period of not to exceed fifty years, to operate the improvements and dispose of the water conserved or the power generated thereby, with the further right, for the period of fifty years, to flow, transport, and convey the water from the improvements, or to conduct and transmit power generated thereby through, over, and upon any of the lands of the state or channels or beds of any of its reservoirs, lakes, canals, races, aqueducts, or watercourses. In the exercise of such rights, such purchaser or the purchaser's assigns shall at all times during the term of the grant maintain the improvements so conveyed to them in a good state of repair and shall not interfere with the navigation of the canals of the state or with the control and maintenance thereof or with the sale of water by the state from its dams, reservoirs, and improvements other than those so constructed. The state does not incur any liability by reason of such sale and the rights granted thereunder to continue to maintain such canals, races, channels, or watercourses, or to continue the use thereof. Such conveyance or grant by the sheriff as such master commissioner shall contain a clause giving the chief such control of waste gates and wickets as to regulate the flow of water in the state reservoirs or canals, in such manner as to maintain the proper level therein and to prevent the flowing into such reservoirs and canals of such quantities of water as might impair any of the property of the state or its lessees, except as otherwise provided in section 1520.03 of the Revised

Code.

Upon the foreclosure of the lien and the sale of the improvements, all contracts or leases for the sale, use, or lease of water, the lands and improvements adjacent thereto, or power rights then outstanding shall become void, and the rights of the state and the several lessees thereunder, shall cease.

Upon the making of an order by the court for the sale of such improvements, and before they are offered for sale by the sheriff, the court shall appoint three disinterested appraisers, one of whom shall be a water-works or hydraulic engineer with at least five years' experience in the practice of the engineer's profession, and two of whom shall be freeholders residing in the county in which any of such improvements are located. The appraisers shall appraise the improvements and shall, within the time fixed by the court, file such appraisal in writing with the clerk. If the lien given by this section as security for the payment of the bonds covers a part only of the improvements, the appraisers shall appraise the improvements as an entirety, and shall also appraise separately the part constructed from the proceeds of the sale of the bonds, the lien of which is being foreclosed in such proceeding.

In making such appraisal and fixing the value of the improvements or of such part thereof, the appraisers shall have access to all papers and documents on file in the office of the chief relating to such improvements, including the plans and specifications therefor, and the bids made and contracts entered into for the construction thereof, and all leases and contracts for the sale of water impounded therein and power generated thereby. The order of the court shall direct the sale only of such part of the improvements as have been constructed from the proceeds of the sale of the bonds. The purchaser at such sale, in the operation of such improvements during the term of the franchise granted to the purchaser by this section, shall draw from the dam or reservoir impounding such water only such portion thereof as the appraised value of that part of such improvements, constructed from the proceeds of the sale of such bonds and sold to the purchaser under the order of the court, bears to the entire appraised value of such improvements.

If at any time during the term of the franchise granted to the purchaser of such improvements at such foreclosure sale any controversy arises between the purchaser or the purchaser's assigns and the chief as to the operation of such improvements, or as to the amount of water which the purchaser is drawing or is entitled to draw therefrom, either the purchaser or the chief may file a petition in the court, setting forth the facts connected with such controversy.

Notice in writing of the filing of such petition shall be given to the opposite party to the controversy within thirty days from the date of the filing thereof, either by service of such notice personally upon such opposite party by the sheriff of such county or by service by mail by the clerk. Such notice shall be mailed to the name and address which the purchaser filed with the clerk at the time of the delivery to the purchaser by the sheriff of the deed. Within thirty days from the serving or mailing of such notice, the opposite party to the controversy shall file an answer in the court, and thereupon the court shall hear and determine the controversy and make such order in regard to it as is just and proper, which order shall be binding upon all the parties to the controversy.

At the termination of the period of not to exceed fifty years, all of the rights and privileges conveyed to the purchaser by the deed and grant of such sheriff as master commissioner shall cease and the improvements, with all the appurtenances belonging thereto, shall revert to and become the property of the state, free and clear of any claims whatever against them.

The clerk shall distribute and pay the money received by the clerk from the sheriff as such master commissioner from the sale of such improvements to the holders of the bonds pro rata, and upon such payment to any of the bondholders, they shall surrender to the ~~the~~ clerk their bonds, with all unpaid interest coupons thereon. The clerk shall thereupon cancel the same and deliver them, so canceled, to the treasurer of the water conservation improvement fund.

**Sec. 1523.11.** All appropriations of property made by the chief of the division of soil and water resources in carrying out sections 1523.01 to 1523.13 of the Revised Code, shall be made in accordance with sections 163.01 to 163.22 of the Revised Code, provided that possession of any property so appropriated shall not be taken by the state or the chief before the compensation and damages awarded therefor in the appropriation proceedings have been paid into court.

**Sec. 1523.12.** Sections 1523.01 to 1523.13 of the Revised Code do not authorize any reduction in the quantity or any impairment in the quality of the water in any watershed, stream, or basin, developed or undeveloped, from which any political subdivision is, at the time the chief of the division of soil and water resources proposes and is proceeding to construct in such watershed, stream, or basin any of the improvements authorized by such sections, taking water for the use of itself or its inhabitants, or has plans under way, or has made or begun appropriation of any property or rights in such watershed, stream, or basin for the purpose of acquiring a water supply for itself or its inhabitants for either domestic, industrial, or other uses. Such sections do not authorize the chief to sell or lease the right to use water at any time for any purpose or to such an extent as to prejudice, abrogate, or supersede any of the water rights granted by the state to the city of Akron as provided in volume 102, Ohio Laws, page 175, sections 1 to 3.

**Sec. 1523.13.** If by reason of severe drought or other causes the water supply of any political subdivision is, in the judgment of the chief of the division of soil and water resources, at any time so reduced or impaired as to endanger the property of such political subdivision, or the health, safety, or property of the inhabitants thereof, then the chief, under such regulations as the chief prescribes, may grant to such political subdivision the right, during the continuance of such emergency, to draw or take such quantity of water as is necessary to protect the property of such political subdivision and the health, safety, or property of its inhabitants from any improvement constructed under sections 1523.01 to 1523.13 of the Revised Code, before any of the lessees or grantees of the state using the water for industrial purposes take water therefrom. Such political subdivision shall pay such price per thousand gallons for the water so taken by it as is fixed by the chief and the governor. The price so fixed shall not exceed the maximum price then being paid for water to the state by any of its lessees or grantees. Such grant by the chief to such political subdivision shall not modify the terms or impair the validity of any leases then existing between the state and other persons, firms, or corporations, except as expressly provided in this section.

**Sec. 1523.14.** The director of transportation in constructing highways, bridges, and culverts as provided by law; the board of county commissioners in constructing highways, bridges, and culverts as provided by law; the board of township trustees of any township in constructing highways, bridges, and culverts as provided by law; and any municipal corporation constructing or improving viaducts, bridges, and culverts under section 717.01 of the Revised Code, either severally or jointly, upon request of the chief of the division of soil and water resources and with the approval of the director of transportation, may construct and maintain slack-water dams in connection with the

highway, highway bridge, or culvert so as to create reservoirs, ponds, water parks, basins, lakes, or other incidental works to conserve the water supply of the state.

**Sec. 1523.15.** The chief of the division of soil and water resources may request the public authority having charge of the construction of state, county, or township highways, highway bridges, and culverts, or municipal streets, for the construction of slack-water dams in connection with the construction of any such highway, street, highway bridge, or culvert whenever, in the chief's opinion, the construction of such dam is desirable and feasible for the economical creation and construction of reservoirs, ponds, water parks, basins, lakes, or other incidental works for the conservation of the water supply of the state.

The public authority having charge of such construction may approve such request when, in its opinion, the construction of such dams will not unnecessarily delay or hinder the construction of the highway, street, highway bridge, or culvert, or will not interfere with its value or use for highway purposes.

If such request is approved, the chief, in cooperation with the department of transportation and the public authority participating in the project, shall make a survey and prepare plans, specifications, and estimates for the construction of such dams and the reservoir, pond, water park, basin, lake, or other incidental works in connection therewith.

Upon approval of the plans and specifications and determination to proceed with the project, the chief shall enter into an agreement with the public authority on the distribution of the cost and expense of the construction of such dams and incidental works in connection therewith. The portion of the cost to be paid by the division of soil and water resources shall be paid from any funds appropriated for or paid into the division and available for such purpose.

Such dams shall be constructed under and subject to any laws governing the construction of state, county, or township highways, bridges, or culverts. Any public authority undertaking construction under sections 1523.14 to 1523.20 of the Revised Code shall proceed in the same manner as provided for the construction of highway or street improvements.

**Sec. 1523.16.** Any department or division of the state government, or any county, township, municipal corporation, park board, or district, or any organization, club, corporation, or private person may petition the chief of the division of soil and water resources for the construction of dams and reservoir projects in connection with the construction of any highway, highway bridge, or culvert.

Upon receipt of such a petition and its approval by the chief, the chief shall proceed as authorized by section 1523.15 of the Revised Code. If the public authority having charge of the construction of such highway, street, highway bridge, or culvert approves the request, then the chief shall enter into an agreement with the public authority, organization, or person petitioning for the construction of such dam or reservoir on the apportionment of the cost and expense of construction. The cost and expense of such dam project shall include the cost of clearing and grubbing and the cost of property and damages incidental thereto. Such agreement shall also contain provisions for the proper maintenance and repair of such projects after completion, and also apportion the revenue derived therefrom between the division of soil and water resources and the petitioner.

**Sec. 1523.17.** In all cases in which a public authority, private organization, or person petitions for the construction of a dam and reservoir project as authorized by sections 1523.14 to 1523.20 of



the Revised Code, the chief of the division of soil and water resources, as a condition precedent to the construction of such project, shall require the petitioning authority, organization, or person to pay the petitioning authority's, organization's, or person's share of the cost and expense of such project.

Any deficiency shall be made up by the parties bearing the cost before any further work is done. If the deficiency is not made up within sixty days after it is known, the amount paid in, less the expense incurred by the chief and the cooperating public authorities, shall be refunded to the donor. After completion of the work, any amount remaining to the credit of the project shall likewise be refunded.

**Sec. 1523.18.** In the construction of dams, reservoirs, and other incidental works under sections 1523.14 to 1523.20 of the Revised Code, the chief of the division of soil and water resources shall proceed as provided by law, and shall enter into contracts therefor as provided in sections 153.01 to 153.29 of the Revised Code. The director of transportation, the chief of the division of wildlife with the approval of the director of natural resources, and any county, township, municipal corporation, and public park board or district may proceed with the letting of contracts for the construction of such dams or reservoir projects, approved by the chief of the division of soil and water resources, under any laws regulating the letting of contracts applicable to their respective departments, divisions, districts, or political subdivisions, and the authority of sections 1523.14 to 1523.20 of the Revised Code.

**Sec. 1523.19.** The chief of the division of soil and water resources shall have the supervision, care, and control of all dams, reservoirs, ponds, water parks, basins, lakes, or other incidental works constructed under sections 1523.14 to 1523.20 of the Revised Code, and shall maintain and keep them in repair. The cost of such maintenance and repair shall be paid from any funds appropriated to the division of soil and water resources for that purpose or paid into the state treasury as agreed upon with the public or contracting authorities co-operating in the construction of such projects.

Such projects may also be maintained by any department or division of state government or other public authorities leasing or operating the projects, through agreements made with the chief. All rentals derived from the lessees of such projects shall be used by the chief in the maintenance or repair of all such projects constructed under such sections. The costs and expenses of the reconstruction of any such projects shall be distributed, unless otherwise agreed, on the same basis and pro-rata share of the costs and expenses as was paid by the contracting authorities contributing to the cost of the original project.

**Sec. 1523.20.** When the chief of the division of soil and water resources and the owners of the lands, waters, or riparian rights are unable to agree upon the terms, purchase price, and sale thereof, the chief may acquire the lands by appropriation proceedings in the manner provided by sections 163.01 to 163.22 of the Revised Code.

The title or lease to any such lands, waters, or riparian rights shall be taken by the chief, subject to the approval of the governor and the attorney general, in the name of the state. The lease rentals or purchase price of any such lands, waters, or riparian rights, as well as all costs and expenses of constructing any such reservoirs, ponds, water parks, basins, lakes, or other incidental works on those lands, may be paid for from any funds appropriated for the use of or paid into the division of soil and water resources and available for that purpose. The chief may accept contributions to those funds from individuals, associations, clubs, organizations, and corporations.

**Sec. 1531.35.** The wildlife boater angler fund is hereby created in the state treasury. The fund shall consist of money credited to the fund pursuant to section 5735.051 of the Revised Code and other money contributed to the division of wildlife for the purposes of the fund. The fund shall be used for boating access construction, improvements, maintenance and repair of dams and impoundments, and acquisitions, including lands and facilities for boating access, and to pay for equipment and personnel costs involved with those activities, on waters on which the operation of gasoline-powered watercraft is permissible. However, not more than five hundred thousand dollars of the annual expenditures from the fund may be used to pay for the equipment and personnel costs.

**Sec. 1548.11.** (A) In the event of the transfer of ownership of a watercraft or outboard motor by operation of law, as upon inheritance, devise, bequest, order in bankruptcy, insolvency, replevin, or execution of sale, or whenever the engine of a watercraft is replaced by another engine, a watercraft or outboard motor is sold to satisfy storage or repair charges, or repossession is had upon default in performance of the terms of a security agreement as provided in Chapter 1309. of the Revised Code, a clerk of a court of common pleas, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or, when that is not possible, upon presentation of satisfactory proof to the clerk of ownership and rights of possession to the watercraft or outboard motor, and upon payment of the fee prescribed in section 1548.10 of the Revised Code and presentation of an application for certificate of title, may issue to the applicant a certificate of title to the watercraft or outboard motor. Only an affidavit by the person or agent of the person to whom possession of the watercraft or outboard motor has passed, setting forth the facts entitling the person to possession and ownership, together with a copy of the journal entry, court order, or instrument upon which the claim of possession and ownership is founded, is satisfactory proof of ownership and right of possession. If the applicant cannot produce such proof of ownership, the applicant may apply directly to the chief of the division of parks and watercraft and submit such evidence as the applicant has, and the chief, if the chief finds the evidence sufficient, may authorize the clerk to issue a certificate of title. If the chief finds the evidence insufficient, the applicant may petition the court of common pleas for a court order ordering the clerk to issue a certificate of title. The court shall grant or deny the petition based on the sufficiency of the evidence presented to the court. If, from the records in the office of the clerk, there appears to be any lien on the watercraft or outboard motor, the certificate of title shall contain a statement of the lien unless the application is accompanied by proper evidence of its extinction.

(B) Upon the death of one of the persons who have established joint ownership with right of survivorship under section 2131.12 of the Revised Code in a watercraft or outboard motor and the presentation to the clerk of the title and the certificate of death of the deceased person, the clerk shall enter into the records the transfer of the watercraft or outboard motor to the surviving person, and the title to the watercraft or outboard motor immediately passes to the surviving person. The transfer does not affect any liens on the watercraft or outboard motor.

(C) The clerk shall transfer a decedent's interest in one watercraft, one watercraft trailer, one outboard motor, or one of each to the decedent's surviving spouse as provided in section 2106.19 of the Revised Code.

(D) Upon the death of an owner of a watercraft or outboard motor designated in beneficiary form under section 2131.13 of the Revised Code, upon application of the transfer-on-death

beneficiary or beneficiaries designated pursuant to that section, and upon presentation to the clerk of the certificate of title and the certificate of death of the deceased owner, the clerk shall transfer the watercraft or outboard motor and issue a certificate of title to the transfer-on-death beneficiary or beneficiaries. The transfer does not affect any liens upon any watercraft or outboard motor so transferred.

**Sec. 1561.04.** The director of natural resources or the director's designee shall annually make a report to the governor, which shall include:

- (A) A summary of the activities and of the reports of the deputy mine inspectors;
- (B) A statement of the condition and the operation of the mines of the state;
- (C) A statement of the number of accidents in and about the mines, the manner in which they occurred, and any other data and facts bearing upon the prevention of accidents and the preservation of life, health, and property, and any suggestions relative to the better preservation of the life, health, and property of those engaged in the mining industry.

The records of the bureau of workers' compensation shall be available to the director or the director's designee for information concerning such a report. The director or the director's designee shall send by mail to each coal operator in the state, to a duly designated representative of the miners at each mine, and to such other persons as the director or the director's designee deems proper, a copy of such report. The director or the director's designee may have as many copies of such report printed as are needed to make the distribution thereof as provided in this section.

The director or the director's designee shall also prepare and publish for public distribution quarterly reports, including therein information relative to the items enumerated in this section that is pertinent or available at such times.

**Sec. 1707.01.** As used in this chapter:

(A) Whenever the context requires it, "division" or "division of securities" may be read as "director of commerce" or as "commissioner of securities."

(B) "Security" means any certificate or instrument, or any oral, written, or electronic agreement, understanding, or opportunity, that represents title to or interest in, or is secured by any lien or charge upon, the capital, assets, profits, property, or credit of any person or of any public or governmental body, subdivision, or agency. It includes shares of stock, certificates for shares of stock, an uncertificated security, membership interests in limited liability companies, voting-trust certificates, warrants and options to purchase securities, subscription rights, interim receipts, interim certificates, promissory notes, all forms of commercial paper, evidences of indebtedness, bonds, debentures, land trust certificates, fee certificates, leasehold certificates, syndicate certificates, endowment certificates, interests in or under profit-sharing or participation agreements, interests in or under oil, gas, or mining leases, preorganization or reorganization subscriptions, preorganization certificates, reorganization certificates, interests in any trust or pretended trust, any investment contract, any life settlement interest, any instrument evidencing a promise or an agreement to pay money, warehouse receipts for intoxicating liquor, and the currency of any government other than those of the United States and Canada, but sections 1707.01 to 1707.45 of the Revised Code do not apply to the sale of real estate.

(C)(1) "Sale" has the full meaning of "sale" as applied by or accepted in courts of law or equity, and includes every disposition, or attempt to dispose, of a security or of an interest in a

security. "Sale" also includes a contract to sell, an exchange, an attempt to sell, an option of sale, a solicitation of a sale, a solicitation of an offer to buy, a subscription, or an offer to sell, directly or indirectly, by agent, circular, pamphlet, advertisement, or otherwise.

(2) "Sell" means any act by which a sale is made.

(3) The use of advertisements, circulars, or pamphlets in connection with the sale of securities in this state exclusively to the purchasers specified in division (D) of section 1707.03 of the Revised Code is not a sale when the advertisements, circulars, and pamphlets describing and offering those securities bear a readily legible legend in substance as follows: "This offer is made on behalf of dealers licensed under sections 1707.01 to 1707.45 of the Revised Code, and is confined in this state exclusively to institutional investors and licensed dealers."

(4) The offering of securities by any person in conjunction with a licensed dealer by use of advertisement, circular, or pamphlet is not a sale if that person does not otherwise attempt to sell securities in this state.

(5) Any security given with, or as a bonus on account of, any purchase of securities is conclusively presumed to constitute a part of the subject of that purchase and has been "sold."

(6) "Sale" by an owner, pledgee, or mortgagee, or by a person acting in a representative capacity, includes sale on behalf of such party by an agent, including a licensed dealer or salesperson.

(D) "Person," except as otherwise provided in this chapter, means a natural person, firm, partnership, limited partnership, partnership association, syndicate, joint-stock company, unincorporated association, trust or trustee except where the trust was created or the trustee designated by law or judicial authority or by a will, and a corporation or limited liability company organized under the laws of any state, any foreign government, or any political subdivision of a state or foreign government.

(E)(1) "Dealer," except as otherwise provided in this chapter, means every person, other than a salesperson, who engages or professes to engage, in this state, for either all or part of the person's time, directly or indirectly, either in the business of the sale of securities for the person's own account, or in the business of the purchase or sale of securities for the account of others in the reasonable expectation of receiving a commission, fee, or other remuneration as a result of engaging in the purchase and sale of securities. "Dealer" does not mean any of the following:

(a) Any issuer, including any officer, director, employee, or trustee of, or member or manager of, or partner in, or any general partner of, any issuer, that sells, offers for sale, or does any act in furtherance of the sale of a security that represents an economic interest in that issuer, provided no commission, fee, or other similar remuneration is paid to or received by the issuer for the sale;

(b) Any licensed attorney, public accountant, or firm of such attorneys or accountants, whose activities are incidental to the practice of the attorney's, accountant's, or firm's profession;

(c) Any person that, for the account of others, engages in the purchase or sale of securities that are issued and outstanding before such purchase and sale, if a majority or more of the equity interest of an issuer is sold in that transaction, and if, in the case of a corporation, the securities sold in that transaction represent a majority or more of the voting power of the corporation in the election of directors;

(d) Any person that brings an issuer together with a potential investor and whose compensation is not directly or indirectly based on the sale of any securities by the issuer to the

investor;

(e) Any bank;

(f) Any person that the division of securities by rule exempts from the definition of "dealer" under division (E)(1) of this section.

(2) "Licensed dealer" means a dealer licensed under this chapter.

(F)(1) "Salesman" or "salesperson" means every natural person, other than a dealer, who is employed, authorized, or appointed by a dealer to sell securities within this state.

(2) The general partners of a partnership, and the executive officers of a corporation or unincorporated association, licensed as a dealer are not salespersons within the meaning of this definition, nor are clerical or other employees of an issuer or dealer that are employed for work to which the sale of securities is secondary and incidental; but the division of securities may require a license from any such partner, executive officer, or employee if it determines that protection of the public necessitates the licensing.

(3) "Licensed salesperson" means a salesperson licensed under this chapter.

(G) "Issuer" means every person who has issued, proposes to issue, or issues any security.

(H) "Director" means each director or trustee of a corporation, each trustee of a trust, each general partner of a partnership, except a partnership association, each manager of a partnership association, and any person vested with managerial or directory power over an issuer not having a board of directors or trustees.

(I) "Incorporator" means any incorporator of a corporation and any organizer of, or any person participating, other than in a representative or professional capacity, in the organization of an unincorporated issuer.

(J) "Fraud," "fraudulent," "fraudulent acts," "fraudulent practices," or "fraudulent transactions" means anything recognized on or after July 22, 1929, as such in courts of law or equity; any device, scheme, or artifice to defraud or to obtain money or property by means of any false pretense, representation, or promise; any fictitious or pretended purchase or sale of securities; and any act, practice, transaction, or course of business relating to the purchase or sale of securities that is fraudulent or that has operated or would operate as a fraud upon the seller or purchaser.

(K) Except as otherwise specifically provided, whenever any classification or computation is based upon "par value," as applied to securities without par value, the average of the aggregate consideration received or to be received by the issuer for each class of those securities shall be used as the basis for that classification or computation.

(L)(1) "Intangible property" means patents, copyrights, secret processes, formulas, services, good will, promotion and organization fees and expenses, trademarks, trade brands, trade names, licenses, franchises, any other assets treated as intangible according to generally accepted accounting principles, and securities, accounts receivable, or contract rights having no readily determinable value.

(2) "Tangible property" means all property other than intangible property and includes securities, accounts receivable, and contract rights, when the securities, accounts receivable, or contract rights have a readily determinable value.

(M) "Public utilities" means those utilities defined in sections 4905.02, 4905.03, 4907.02, and 4907.03 of the Revised Code; in the case of a foreign corporation, it means those utilities defined as

public utilities by the laws of its domicile; and in the case of any other foreign issuer, it means those utilities defined as public utilities by the laws of the situs of its principal place of business. The term always includes railroads whether or not they are so defined as public utilities.

(N) "State" means any state of the United States, any territory or possession of the United States, the District of Columbia, and any province of Canada.

(O) "Bank" means any bank, trust company, savings and loan association, savings bank, or credit union that is incorporated or organized under the laws of the United States, any state of the United States, Canada, or any province of Canada and that is subject to regulation or supervision by that country, state, or province.

(P) "Include," when used in a definition, does not exclude other things or persons otherwise within the meaning of the term defined.

(Q)(1) "Registration by description" means that the requirements of section 1707.08 of the Revised Code have been complied with.

(2) "Registration by qualification" means that the requirements of sections 1707.09 and 1707.11 of the Revised Code have been complied with.

(3) "Registration by coordination" means that there has been compliance with section 1707.091 of the Revised Code. Reference in this chapter to registration by qualification also includes registration by coordination unless the context otherwise indicates.

(R) "Intoxicating liquor" includes all liquids and compounds that contain more than three and two-tenths per cent of alcohol by weight and are fit for use for beverage purposes.

(S) "Institutional investor" means any of the following, whether acting for itself or for others in a fiduciary capacity:

(1) A bank or international banking institution;

(2) An insurance company;

(3) A separate account of an insurance company;

(4) An investment company as defined in the "Investment Company Act of 1940," 15 U.S.C. 80a-3;

(5) A broker-dealer registered under the "Securities Exchange Act of 1934," 15 U.S.C. 78o, as amended, or licensed by the division of securities as a dealer;

(6) An employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of ten million dollars or its investment decisions are made by a named fiduciary, as defined in the "Employee Retirement Income Security Act of 1974," 29 U.S.C. 1001, that is one of the following:

(a) A broker-dealer registered under the "Securities Exchange Act of 1934," 15 U.S.C. 78o, as amended;

(b) An investment adviser registered or exempt from registration under the "Investment Advisers Act of 1940," 15 U.S.C. 80b-3;

(c) An investment adviser registered under this chapter, a bank, or an insurance company.

(7) A plan established and maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state for the benefit of its employees, if the plan has total assets in excess of ten million dollars or its investment decisions are made by a duly designated public official or by a named fiduciary, as defined in the "Employee Retirement Income Security Act of 1974," 29 U.S.C. 1001, that is one of the following:

(a) A broker-dealer registered under the "Securities Exchange Act of 1934," 15 U.S.C. 78o, as amended;

(b) An investment adviser registered or exempt from registration under the "Investment Advisers Act of 1940," 15 U.S.C. 80b-3;

(c) An investment adviser registered under this chapter, a bank, or an insurance company.

(8) A trust, if it has total assets in excess of ten million dollars, its trustee is a bank, and its participants are exclusively plans of the types identified in division (S)(6) or (7) of this section, regardless of the size of their assets, except a trust that includes as participants self-directed individual retirement accounts or similar self-directed plans;

(9) An organization described in section 501(c)(3) of the "Internal Revenue Code of 1986," 26 U.S.C. 1, as amended, corporation, Massachusetts trust or similar business trust, limited liability company, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of ten million dollars;

(10) A small business investment company licensed by the small business administration under section 301(c) of the "Small Business Investment Act of 1958," 15 U.S.C. 681(c), with total assets in excess of ten million dollars;

(11) A private business development company as defined in section 202(a)(22) of the "Investment Advisers Act of 1940," 15 U.S.C. 80b-2(a)(22), with total assets in excess of ten million dollars;

(12) A federal covered investment adviser acting for its own account;

(13) A "qualified institutional buyer" as defined in 17 C.F.R. 230.144A(a)(1), other than 17 C.F.R. 230.144A(a)(1)(H);

(14) A "major U.S. institutional investor" as defined in 17 C.F.R. 240.15a-6(b)(4)(i);

(15) Any other person, other than an individual, of institutional character with total assets in excess of ten million dollars not organized for the specific purpose of evading this chapter;

(16) Any other person specified by rule adopted or order issued under this chapter.

(T) A reference to a statute of the United States or to a rule, regulation, or form promulgated by the securities and exchange commission or by another federal agency means the statute, rule, regulation, or form as it exists at the time of the act, omission, event, or transaction to which it is applied under this chapter.

(U) "Securities and exchange commission" means the securities and exchange commission established by the Securities Exchange Act of 1934.

(V)(1) "Control bid" means the purchase of or offer to purchase any equity security of a subject company from a resident of this state if either of the following applies:

(a) After the purchase of that security, the offeror would be directly or indirectly the beneficial owner of more than ten per cent of any class of the issued and outstanding equity securities of the issuer.

(b) The offeror is the subject company, there is a pending control bid by a person other than the issuer, and the number of the issued and outstanding shares of the subject company would be reduced by more than ten per cent.

(2) For purposes of division (V)(1) of this section, "control bid" does not include any of the following:

(a) A bid made by a dealer for the dealer's own account in the ordinary course of business of buying and selling securities;

(b) An offer to acquire any equity security solely in exchange for any other security, or the acquisition of any equity security pursuant to an offer, for the sole account of the offeror, in good faith and not for the purpose of avoiding the provisions of this chapter, and not involving any public offering of the other security within the meaning of Section 4 of Title I of the "Securities Act of 1933," 48 Stat. 77, 15 U.S.C.A. 77d(2), as amended;

(c) Any other offer to acquire any equity security, or the acquisition of any equity security pursuant to an offer, for the sole account of the offeror, from not more than fifty persons, in good faith and not for the purpose of avoiding the provisions of this chapter.

(W) "Offeror" means a person who makes, or in any way participates or aids in making, a control bid and includes persons acting jointly or in concert, or who intend to exercise jointly or in concert any voting rights attached to the securities for which the control bid is made and also includes any subject company making a control bid for its own securities.

(X)(1) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of regular business, issues or promulgates analyses or reports concerning securities.

(2) "Investment adviser" does not mean any of the following:

(a) Any attorney, accountant, engineer, or teacher, whose performance of investment advisory services described in division (X)(1) of this section is solely incidental to the practice of the attorney's, accountant's, engineer's, or teacher's profession;

(b) A publisher of any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation;

(c) A person who acts solely as an investment adviser representative;

(d) A bank holding company, as defined in the "Bank Holding Company Act of 1956," 70 Stat. 133, 12 U.S.C. 1841, that is not an investment company;

(e) A bank, or any receiver, conservator, or other liquidating agent of a bank;

(f) Any licensed dealer or licensed salesperson whose performance of investment advisory services described in division (X)(1) of this section is solely incidental to the conduct of the dealer's or salesperson's business as a licensed dealer or licensed salesperson and who receives no special compensation for the services;

(g) Any person, the advice, analyses, or reports of which do not relate to securities other than securities that are direct obligations of, or obligations guaranteed as to principal or interest by, the United States, or securities issued or guaranteed by corporations in which the United States has a direct or indirect interest, and that have been designated by the secretary of the treasury as exempt securities as defined in the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78c;

(h) Any person that is excluded from the definition of investment adviser pursuant to section 202(a)(11)(A) to (E) of the "Investment Advisers Act of 1940," 15 U.S.C. 80b-2(a)(11), or that has received an order from the securities and exchange commission under section 202(a)(11)(F) of the "Investment Advisers Act of 1940," 15 U.S.C. 80b-2(a)(11)(F), declaring that the person is not within



the intent of section 202(a)(11) of the Investment Advisers Act of 1940.

(i) A person who acts solely as a state retirement system investment officer or as a bureau of workers' compensation chief investment officer;

(j) Any other person that the division designates by rule, if the division finds that the designation is necessary or appropriate in the public interest or for the protection of investors or clients and consistent with the purposes fairly intended by the policy and provisions of this chapter.

(Y)(1) "Subject company" means an issuer that satisfies both of the following:

(a) Its principal place of business or its principal executive office is located in this state, or it owns or controls assets located within this state that have a fair market value of at least one million dollars.

(b) More than ten per cent of its beneficial or record equity security holders are resident in this state, more than ten per cent of its equity securities are owned beneficially or of record by residents in this state, or more than one thousand of its beneficial or record equity security holders are resident in this state.

(2) The division of securities may adopt rules to establish more specific application of the provisions set forth in division (Y)(1) of this section. Notwithstanding the provisions set forth in division (Y)(1) of this section and any rules adopted under this division, the division, by rule or in an adjudicatory proceeding, may make a determination that an issuer does not constitute a "subject company" under division (Y)(1) of this section if appropriate review of control bids involving the issuer is to be made by any regulatory authority of another jurisdiction.

(Z) "Beneficial owner" includes any person who directly or indirectly through any contract, arrangement, understanding, or relationship has or shares, or otherwise has or shares, the power to vote or direct the voting of a security or the power to dispose of, or direct the disposition of, the security. "Beneficial ownership" includes the right, exercisable within sixty days, to acquire any security through the exercise of any option, warrant, or right, the conversion of any convertible security, or otherwise. Any security subject to any such option, warrant, right, or conversion privilege held by any person shall be deemed to be outstanding for the purpose of computing the percentage of outstanding securities of the class owned by that person, but shall not be deemed to be outstanding for the purpose of computing the percentage of the class owned by any other person. A person shall be deemed the beneficial owner of any security beneficially owned by any relative or spouse or relative of the spouse residing in the home of that person, any trust or estate in which that person owns ten per cent or more of the total beneficial interest or serves as trustee or executor, any corporation or entity in which that person owns ten per cent or more of the equity, and any affiliate or associate of that person.

(AA) "Offeree" means the beneficial or record owner of any security that an offeror acquires or offers to acquire in connection with a control bid.

(BB) "Equity security" means any share or similar security, or any security convertible into any such security, or carrying any warrant or right to subscribe to or purchase any such security, or any such warrant or right, or any other security that, for the protection of security holders, is treated as an equity security pursuant to rules of the division of securities.

(CC)(1) "Investment adviser representative" means a supervised person of an investment adviser, provided that the supervised person has more than five clients who are natural persons other

than excepted persons defined in division (EE) of this section, and that more than ten per cent of the supervised person's clients are natural persons other than excepted persons defined in division (EE) of this section. "Investment adviser representative" does not mean any of the following:

(a) A supervised person that does not on a regular basis solicit, meet with, or otherwise communicate with clients of the investment adviser;

(b) A supervised person that provides only investment advisory services described in division (X)(1) of this section by means of written materials or oral statements that do not purport to meet the objectives or needs of specific individuals or accounts;

(c) Any other person that the division designates by rule, if the division finds that the designation is necessary or appropriate in the public interest or for the protection of investors or clients and is consistent with the provisions fairly intended by the policy and provisions of this chapter.

(2) For the purpose of the calculation of clients in division (CC)(1) of this section, a natural person and the following persons are deemed a single client: Any minor child of the natural person; any relative, spouse, or relative of the spouse of the natural person who has the same principal residence as the natural person; all accounts of which the natural person or the persons referred to in division (CC)(2) of this section are the only primary beneficiaries; and all trusts of which the natural person or persons referred to in division (CC)(2) of this section are the only primary beneficiaries. Persons who are not residents of the United States need not be included in the calculation of clients under division (CC)(1) of this section.

(3) If subsequent to March 18, 1999, amendments are enacted or adopted defining "investment adviser representative" for purposes of the Investment Advisers Act of 1940 or additional rules or regulations are promulgated by the securities and exchange commission regarding the definition of "investment adviser representative" for purposes of the Investment Advisers Act of 1940, the division of securities shall, by rule, adopt the substance of the amendments, rules, or regulations, unless the division finds that the amendments, rules, or regulations are not necessary for the protection of investors or in the public interest.

(DD) "Supervised person" means a natural person who is any of the following:

(1) A partner, officer, or director of an investment adviser, or other person occupying a similar status or performing similar functions with respect to an investment adviser;

(2) An employee of an investment adviser;

(3) A person who provides investment advisory services described in division (X)(1) of this section on behalf of the investment adviser and is subject to the supervision and control of the investment adviser.

(EE) "Excepted person" means a natural person to whom any of the following applies:

(1) Immediately after entering into the investment advisory contract with the investment adviser, the person has at least seven hundred fifty thousand dollars under the management of the investment adviser.

(2) The investment adviser reasonably believes either of the following at the time the investment advisory contract is entered into with the person:

(a) The person has a net worth, together with assets held jointly with a spouse, of more than one million five hundred thousand dollars.

(b) The person is a qualified purchaser as defined in division (FF) of this section.

(3) Immediately prior to entering into an investment advisory contract with the investment adviser, the person is either of the following:

(a) An executive officer, director, trustee, general partner, or person serving in a similar capacity, of the investment adviser;

(b) An employee of the investment adviser, other than an employee performing solely clerical, secretarial, or administrative functions or duties for the investment adviser, which employee, in connection with the employee's regular functions or duties, participates in the investment activities of the investment adviser, provided that, for at least twelve months, the employee has been performing such nonclerical, nonsecretarial, or nonadministrative functions or duties for or on behalf of the investment adviser or performing substantially similar functions or duties for or on behalf of another company.

If subsequent to March 18, 1999, amendments are enacted or adopted defining "excepted person" for purposes of the Investment Advisers Act of 1940 or additional rules or regulations are promulgated by the securities and exchange commission regarding the definition of "excepted person" for purposes of the Investment Advisers Act of 1940, the division of securities shall, by rule, adopt the substance of the amendments, rules, or regulations, unless the division finds that the amendments, rules, or regulations are not necessary for the protection of investors or in the public interest.

(FF)(1) "Qualified purchaser" means either of the following:

(a) A natural person who owns not less than five million dollars in investments as defined by rule by the division of securities;

(b) A natural person, acting for the person's own account or accounts of other qualified purchasers, who in the aggregate owns and invests on a discretionary basis, not less than twenty-five million dollars in investments as defined by rule by the division of securities.

(2) If subsequent to March 18, 1999, amendments are enacted or adopted defining "qualified purchaser" for purposes of the Investment Advisers Act of 1940 or additional rules or regulations are promulgated by the securities and exchange commission regarding the definition of "qualified purchaser" for purposes of the Investment Advisers Act of 1940, the division of securities shall, by rule, adopt the amendments, rules, or regulations, unless the division finds that the amendments, rules, or regulations are not necessary for the protection of investors or in the public interest.

(GG)(1) "Purchase" has the full meaning of "purchase" as applied by or accepted in courts of law or equity and includes every acquisition of, or attempt to acquire, a security or an interest in a security. "Purchase" also includes a contract to purchase, an exchange, an attempt to purchase, an option to purchase, a solicitation of a purchase, a solicitation of an offer to sell, a subscription, or an offer to purchase, directly or indirectly, by agent, circular, pamphlet, advertisement, or otherwise.

(2) "Purchase" means any act by which a purchase is made.

(3) Any security given with, or as a bonus on account of, any purchase of securities is conclusively presumed to constitute a part of the subject of that purchase.

(HH) "Life settlement interest" means the entire interest or any fractional interest in an insurance policy or certificate of insurance, or in an insurance benefit under such a policy or certificate, that is the subject of a life settlement contract.

For purposes of this division, "life settlement contract" means an agreement for the purchase, sale, assignment, transfer, devise, or bequest of any portion of the death benefit or ownership of any life insurance policy or contract, in return for consideration or any other thing of value that is less than the expected death benefit of the life insurance policy or contract. "Life settlement contract" includes a viatical settlement contract as defined in section 3916.01 of the Revised Code, but does not include any of the following:

(1) A loan by an insurer under the terms of a life insurance policy, including, but not limited to, a loan secured by the cash value of the policy;

(2) An agreement with a bank that takes an assignment of a life insurance policy as collateral for a loan;

(3) The provision of accelerated benefits as defined in section 3915.21 of the Revised Code;

(4) Any agreement between an insurer and a reinsurer;

(5) An agreement by an individual to purchase an existing life insurance policy or contract from the original owner of the policy or contract, if the individual does not enter into more than one life settlement contract per calendar year;

(6) The initial purchase of an insurance policy or certificate of insurance from its owner by a viatical settlement provider, as defined in section 3916.01 of the Revised Code, that is licensed under Chapter 3916. of the Revised Code.

(II) "State retirement system" means the public employees retirement system, Ohio police and fire pension fund, state teachers retirement system, school employees retirement system, and state highway patrol retirement system.

(JJ) "State retirement system investment officer" means an individual employed by a state retirement system as a chief investment officer, assistant investment officer, or the person in charge of a class of assets or in a position that is substantially equivalent to chief investment officer, assistant investment officer, or person in charge of a class of assets.

(KK) "Bureau of workers' compensation chief investment officer" means an individual employed by the administrator of workers' compensation as a chief investment officer or in a position that is substantially equivalent to a chief investment officer.

**Sec. 1707.14.** (A) No person shall act as a dealer, unless the person is licensed as a dealer by the division of securities, except when at least one of the following cases applies:

(1) When the person is transacting business through or with a licensed dealer;

(2) When the securities are the subject matter of one or more transactions enumerated in divisions (B) to (L), (O) to (R), and (U) to (Y) of section 1707.03, or in section 1707.06 of the Revised Code, except when a commission, discount, or other remuneration is paid or given in consideration with transactions enumerated in divisions (O), (Q), (W), (X), and (Y) of section 1707.03, or in section 1707.06 of the Revised Code;

(3) When the person is an issuer selling securities issued by it or by its subsidiary, if such securities are specified under division (G) or (I) of section 1707.02, or under section 1707.04 of the Revised Code;

(4) When the person is participating in transactions exempt, under section 1707.34 of the Revised Code, from this chapter;

(5) When the person has no place of business in this state, is registered with the securities and

exchange commission, and the only transactions effected in this state are with institutional investors.

(B) Each dealer that in any twelve-month or shorter period, alone or with any other dealer with which it is affiliated, has total revenues of one hundred fifty thousand dollars or more derived from the business of buying, selling, or otherwise dealing in securities, and that at any time during such period has one hundred or more retail securities customers, shall be registered as a broker or dealer with the securities and exchange commission under the Securities Exchange Act of 1934, except the following entities:

(1) A bank;

(2) A dealer that enters into and is in compliance with an undertaking accepted by the division, in which the dealer agrees that it will not engage in any transaction involving the buying, selling, or otherwise dealing in securities with any natural person in this state, except for transactions involving either of the following:

(a) Securities of corporations or associations that have qualified for treatment as nonprofit organizations pursuant to section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended;

(b) Securities or transactions that are described in divisions (A)(1) to (4) of this section.

(C) Every dealer that must be registered as a broker or dealer with the securities and exchange commission pursuant to division (B) of this section shall become so registered no later than ninety days after the date on which the dealer meets the requirements for such registration.

(D) The division by rule may exempt any dealer from complying with the licensing or registration requirements of this section, if the division finds that such licensing or registration is not necessary for the protection of investors or in the public interest.

(E) As used in division (B) of this section, "retail securities customer" means a person that purchases from or through or sells securities to or through a dealer, and that is not an officer, a director, a principal, a general partner, or an employee of, the dealer. Each of the following is deemed to be a single retail securities customer:

(1) A husband and wife;

(2) A minor child and the minor child's parent or legal guardian;

(3) A corporation, a partnership, an association or other unincorporated entity, a joint stock company, or a trust.

**Sec. 1711.15.** In any county in which there is a duly organized county agricultural society, the board of county commissioners or the county agricultural society itself may purchase or lease, for a term of not less than twenty years, real estate on which to hold fairs under the management and control of the county agricultural society, and may erect suitable buildings on the real estate and otherwise improve it.

In counties in which there is a county agricultural society that has purchased, or leased for a term of not less than twenty years, real estate as a site on which to hold fairs, or if the title to the site is vested in fee in the county, the board of county commissioners may erect or repair buildings or otherwise improve the site and pay the rental of it, or contribute to or pay any other form of indebtedness of the society, if the director of agriculture has certified to the board that the county agricultural society is complying with all laws and rules governing the operation of county agricultural societies. The board may appropriate from the county's general fund or permanent

improvement fund, and may appropriate revenue from a tax levied under division (L) of section 5739.09 of the Revised Code, any amount that it considers necessary for any of those purposes, provided that an appropriation of revenue from that tax may be expended only for the purposes provided in the resolution levying that tax.

**Sec. 1711.16.** When the control and management of a fairground is in a county agricultural society, and the board of county commissioners has appropriated an amount for the aid of the society as provided in section 1711.15 of the Revised Code, the society, with the consent of the board, may contract for the erection or repair of buildings or otherwise improve the fairground, to the extent that the payment for the improvement is provided by the board.

When the appropriation is made by the board, the county auditor shall place the proceeds in a special fund, designated the "county agricultural society fund," indicating the purpose for which it is available, provided that an appropriation of revenue from a tax levied by the board under division (L) of section 5739.09 of the Revised Code may be expended only for the purposes provided in the resolution levying that tax. On application of the treasurer of the society, the auditor shall issue an order for the amount of the appropriation to the treasurer of the society, if the society has secured the certificate required under section 1711.05 of the Revised Code, on the treasurer's filing with the auditor a bond in double the amount collected, with good and sufficient sureties approved by the auditor, conditioned for the satisfactory paying over and accounting of the funds for the purposes for which they were provided. The funds shall remain in the special fund in which they are placed by the auditor until they are applied for by the treasurer of the society and the bond is given, or until they are expended by the board for the purposes for which the fund was created. If the society ceases to exist or releases the fund as not required for the purposes for which the fund was created, the board may by resolution transfer the fund to the general fund of the county.

**Sec. 1713.02.** (A) Any institution described in division (A) of section 1713.01 of the Revised Code may become incorporated under sections 1702.01 to 1702.58 of the Revised Code.

(B) Except as provided in division (E) of this section, no nonprofit institution or corporation of the type described in division (A) of section 1713.01 of the Revised Code that is established after October 13, 1967, may confer degrees, diplomas, or other written evidences of proficiency or achievement, until it has received a certificate of authorization issued by the chancellor of higher education, nor shall any such institution or corporation identify itself as a "college" or "university" unless it has received a certificate of authorization from the chancellor.

(C) Except as provided in division (E) of this section, no institution of the type described in division (A)(3) or (B) of section 1713.01 of the Revised Code that intends to offer or offers a course or courses within this state, but that did not offer a course or courses within this state on or before October 13, 1967, may confer degrees, diplomas, or other written evidences of proficiency or achievement or offer any course or courses within this state until it has received a certificate of authorization from the chancellor, nor shall the institution identify itself as a "college" or "university" unless it has received such a certificate from the chancellor.

(D) Each certificate of authorization shall specify the diplomas or degrees authorized to be given, courses authorized to be offered, and the sites at which courses are to be conducted. A copy of such certificate shall be filed with the secretary of state if the institution is incorporated. Any institution or corporation established or that offered a course or courses of instruction in this state

prior to October 13, 1967, may apply to the chancellor for a certificate of authorization, and the chancellor shall issue a certificate if it finds that such institution or corporation meets the requirements established pursuant to sections 1713.01, 1713.02, 1713.03, 1713.04, 1713.06, 1713.09, and 1713.25 of the Revised Code.

(E) An institution that clearly identifies itself in its name with the phrase "bible college" or "bible institute" and has not received a certificate of authorization may confer diplomas and other written evidences of proficiency or achievement other than associate, baccalaureate, master's, and doctoral degrees or any other type of degree and may identify itself as a "bible college" if such institution:

(1) Prominently discloses on any transcripts, diplomas, or other written evidences of proficiency or achievement, and includes with any promotional material or other literature intended for the public, the statement: "this institution is not certified by the department of higher education or the state of Ohio."

(2) Limits its course of instruction to religion, theology, or preparation for a religious vocation, or is operated by a church or religious organization and limits its instruction to preparation for service to churches or other religious organizations.

(3) Confers only diplomas and other written evidences of proficiency or achievement that bear titles clearly signifying the religious nature of the instruction offered by the institution.

(F) Except as otherwise provided in section 3333.046 of the Revised Code, no school of the type described in division (E) of section 3332.01 of the Revised Code that intends to offer or offers a degree program within this state or solicits students within this state may confer a baccalaureate, master's, or doctoral degree or solicit students for such degree programs until it has received both a certificate of authorization from the chancellor of higher education under this chapter and program authorization from the state board of career colleges and schools for such degree program under section 3332.05 of the Revised Code.

**Sec. 1713.03.** The chancellor of higher education shall establish standards for certificates of authorization to be issued to institutions as defined in section 1713.01 of the Revised Code, to private institutions exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, and to schools holding certificates of registration issued by the state board of career colleges and schools pursuant to division (C) of section 3332.05 of the Revised Code. A certificate of authorization may permit an institution or school to award one or more types of degrees.

The standards for a certificate of authorization may include, for various types of institutions, schools, or degrees, minimum qualifications for faculty, library, laboratories, and other facilities as adopted and published by the chancellor. The standards shall be adopted by the chancellor pursuant to Chapter 119. of the Revised Code.

An institution or school shall apply to the chancellor for a certificate of authorization on forms containing such information as is prescribed by the chancellor. Each institution or school with a certificate of authorization shall file an annual report with the chancellor in such form and containing such information as the chancellor prescribes.

The chancellor shall adopt a rule under Chapter 119. of the Revised Code establishing fees to pay the cost of reviewing an application for a certificate of authorization, which the institution or

school shall pay when it applies for a certificate of authorization, and establishing fees, which an institution or school shall pay, for any further reviews the chancellor determines necessary upon examining an institution's or school's annual report.

**Sec. 1713.031.** The chancellor of higher education shall review an application for a certificate of authorization from a school described in division (E) of section 3332.01 of the Revised Code within twenty-two weeks.

**Sec. 1713.04.** A certificate of authorization provided for in section 1713.02 of the Revised Code is subject to revocation by the chancellor of higher education for cause pursuant to Chapter 119. of the Revised Code.

**Sec. 1713.05.** (A) As used in this section:

(1) "College or university" means a nonprofit educational institution qualifying under division (A)(2) of section 1713.01 and holding a certificate of authorization issued under section 1713.02 of the Revised Code.

(2) "Controlled entity" means a wholly owned subsidiary of a college or a university or a partnership in which a college or a university, or its wholly owned subsidiary, is the sole general partner.

(3) "Student" means a person attending a college or university who borrows money or obtains credit from such college or university, or from a controlled entity of such college or university, to finance the costs of attending such college or university, and includes the parents, guardians, and spouse of the student.

(B) Notwithstanding section 1343.01 of the Revised Code, a college or university, or a controlled entity of such college or university, may charge interest or finance charges on loans made or credit granted to a student for the student's costs of attending such college or university at any rate or rates agreed upon or consented to by the student in any open accounts receivable, loan agreement, or promissory note, but not to exceed the maximum interest rate applicable to the federal Stafford loan program under 34 C.F.R. 682.202(a)(1). The chancellor of higher education shall adopt rules specifying a schedule for the certification of such maximum interest rate.

(C) A college or university, or a controlled entity of such college or university, may charge students for the late payment of any costs of attending such college or university, including any payment under an agreement or note pursuant to division (B) of this section, at a rate not exceeding five per cent of any unpaid amount due and not paid per month for two months and not exceeding two per cent of such amount for subsequent months. A charge for a full month may be made for payments more than ten days late.

**Sec. 1713.06.** If any institution, school, or person confers degrees, diplomas, or other written evidences of proficiency or achievement or offers or intends to offer a course or courses in this state applicable to requirements for a diploma or degree without the certificate of authorization required by section 1713.02 of the Revised Code, the chancellor of higher education may, through the office of the attorney general, apply to the court of common pleas in the county in which such institution, school, or person is operating to restrain such institution, school, or person from the exercise of its franchise, if the institution, school, or person is a corporation, from the awarding of the degrees or diplomas the institution, school, or person is not authorized to award, and from offering any course or courses or enrolling any student in any course or courses it is not authorized to conduct.



The chancellor may, through the office of the attorney general, petition the court of common pleas in the county in which the institution, school, or person is operating for an order enjoining the awarding of diplomas or degrees, the offering of courses, and the enrolling of students. The court may grant such injunctive relief upon a showing that the institution, school, or person named in the petition is awarding degrees or diplomas, offering courses applicable to requirements for such degrees or diplomas, or enrolling students in such courses to be offered in the state without receiving the appropriate certificate of authorization issued by the chancellor.

**Sec. 1713.09.** A college, university, or other institution of learning, existing by virtue of an act of incorporation, or that becomes incorporated for any of the purposes specified in sections 1713.01 to 1713.39, inclusive, of the Revised Code, if three-fourths of the trustees or directors thereof deem it proper, or if the institution is owned in shares, or by stock subscribed or taken, by a vote of the holders of three-fourths of the stock or shares, may change the location of such institution, convey its real estate, and transfer the effects thereof, and invest them at the place to which such institution is removed. Any institution which has a certificate of authorization from the chancellor of higher education shall give written notice to the chancellor before such institution changes its location. No such removal shall be ordered, and no vote taken thereon, until after publication in the manner provided by law in case of a sale and distribution of the property of such an institution. Such publication shall fully set forth the place to which it is proposed to remove the institution. In case of removal, a copy of the proceedings of such meeting shall be filed with the secretary of state.

**Sec. 1713.25.** The board of trustees of an institution of learning incorporated under the authority of this state for the sole purpose of promoting education, religion and morality, or the fine arts, at a regular or special meeting of such board called for that purpose, after thirty days' actual notice to each trustee, may change the name and enlarge the purposes and objects of such institution of learning, by amendment to its charter, approved by a majority of the board.

No institution as defined in section 1713.01 of the Revised Code or school that holds a certificate of registration issued by the state board of career colleges and schools pursuant to division (C) of section 3332.05 of the Revised Code, that has been issued a certificate of authorization by the chancellor of higher education shall change the purposes of the institution without giving written notice to the chancellor, who shall issue an amended certificate of authorization to the institution or school upon receipt of such notice.

**Sec. 1724.04.** A county that elects under section 5722.02 of the Revised Code to adopt and implement the procedures set forth in sections 5722.02 to 5722.15 of the Revised Code may organize a county land reutilization corporation under this chapter and Chapter 1702. of the Revised Code for the purpose of exercising the powers granted to a county under Chapter 5722. of the Revised Code. The county treasurer of the county for the benefit of which the corporation is being organized shall be the incorporator of the county land reutilization corporation. The form of the articles of incorporation of the corporation shall be approved by resolution of the board of county commissioners of the county.

When the articles of incorporation of any community improvement corporation, or any amendment, amended articles, merger, or consolidation which provides for the creation of such a corporation, are deposited for filing and recording in the office of the secretary of state, the secretary of state shall submit them to the attorney general for examination. If such articles, amendment,

amended articles, merger, or consolidation, are found by the attorney general to be in accordance with Chapter 1724. of the Revised Code, and not inconsistent with the constitution and laws of the United States and of this state, the attorney general shall endorse thereon the attorney general's approval and deliver them to the secretary of state, who shall file and record them pursuant to section 1702.07 of the Revised Code.

**Sec. 1739.02.** (A) The following groups that have been organized and maintained in good faith for a continuous period of five years or more for purposes other than obtaining insurance may establish, maintain, or operate a group self-insurance program under a multiple employer welfare arrangement that is chartered and created in this state under sections 1739.01 to 1739.22 of the Revised Code:

- (1) A chamber of commerce;
- (2) A trade association;
- (3) An industry association;
- (4) A professional association;
- (5) A voluntary employee beneficiary association that is exempt from taxation by the internal revenue service under section 501(c)(9) of the Internal Revenue Code of 1986, as amended;
- (6) A business league that is exempt from taxation by the internal revenue service under section 501(c)(6) of the Internal Revenue Code of 1986, as amended;
- (7) Any other association that the superintendent of insurance may define by rule.

(B) Except as provided in section 9.833 and sections 1739.01 to 1739.22 of the Revised Code, no multiple employer welfare arrangement or other entity by which two or more employers jointly participate in a common employee welfare benefit plan shall operate a group self-insurance program in this state after four months after April 9, 1993.

(C) Sections 1739.01 to 1739.22 of the Revised Code do not apply to any entity that establishes, maintains, or operates a fully insured program.

(D) No person shall establish, operate, or maintain a multiple employer welfare arrangement providing benefits through a group self-insurance program in this state unless the multiple employer welfare arrangement has a valid certificate of authority from the superintendent of insurance.

**Sec. 1739.03.** (A) No employer shall enter into an agreement to participate in a group self-insurance program unless the multiple employer welfare arrangement has been issued a certificate of authority by the superintendent of insurance. Employers or other organizers that propose to create an arrangement or arrangements and provide benefits through a group self-insurance program or group self-insurance programs shall apply to the superintendent for a certificate of authority.

If a group listed under division (A) of section 1739.02 of the Revised Code establishes, maintains, or operates more than one multiple employer welfare arrangement subject to sections 1739.01 to 1739.22 of the Revised Code, the group shall apply to the superintendent for only one certificate of authority which shall cover all such arrangements.

(B) When applying for a certificate of authority, a proposed multiple employer welfare arrangement or arrangements shall file with the superintendent a nonrefundable filing fee of one thousand dollars and an application setting forth all of the following:

- (1) The name of each arrangement;
- (2) The address of each arrangement's principal place of business;

(3) The name and address of a resident of this state designated and appointed as the registered agent of each proposed arrangement for service of process in this state in accordance with division (C) of section 1739.15 of the Revised Code. The person so designated and appointed shall be an officer of the arrangement.

(4) The names and addresses of the officers, directors, and trustees of each proposed arrangement and a statement of whether any of such officers, directors, and trustees have been convicted of any felony or misdemeanor within ten years prior to the date of the application;

(5) The powers of the officers, directors, and trustees;

(6) The term of office of each officer, director, and trustee;

(7) A brief outline of the method by which the administrative obligations of each arrangement will be met;

(8) A business plan describing the arrangement's anticipated method of operations for two years from its commencement of activities.

(9) A copy of the articles and bylaws of each arrangement;

(10) A copy of the agreement;

(11) The name and address of all third-party administrators;

(12) A copy of each agreement between each arrangement and all third-party administrators;

(13) A statement certified by an independent certified public accountant regarding the financial condition of each arrangement listing, on a form as may be prescribed by the superintendent, all of its assets and liabilities for the last month ending forty-five days prior to the application date;

(14) A copy of each contract, certificate, endorsement, and application form each proposed arrangement intends to issue or use;

(15) The names of any co-sponsors, promoters, trustees, or other facilitators involved with the establishment of each arrangement;

(16) Other information, documents, or statements as the superintendent requires.

(C) All fees collected under division (B) of this section shall be paid into the state treasury to the credit of the department of insurance operating fund created under section 3901.021 of the Revised Code.

**Sec. 1739.05.** (A) A multiple employer welfare arrangement that is created pursuant to sections 1739.01 to 1739.22 of the Revised Code and that operates a group self-insurance program may be established only if any of the following applies:

(1) The arrangement has and maintains a minimum enrollment of three hundred employees of two or more employers.

(2) The arrangement has and maintains a minimum enrollment of three hundred self-employed individuals.

(3) The arrangement has and maintains a minimum enrollment of three hundred employees or self-employed individuals in any combination of divisions (A)(1) and (2) of this section.

(B) A multiple employer welfare arrangement that is created pursuant to sections 1739.01 to 1739.22 of the Revised Code and that operates a group self-insurance program shall comply with all laws applicable to self-funded programs in this state, including sections 3901.04, 3901.041, 3901.19 to 3901.26, 3901.38, 3901.381 to 3901.3814, 3901.40, 3901.45, 3901.46, 3901.491, 3902.01 to

3902.14, 3923.041, 3923.24, 3923.282, 3923.30, 3923.301, 3923.38, 3923.581, 3923.602, 3923.63, 3923.80, 3923.84, 3923.85, 3923.851, 3924.031, 3924.032, and 3924.27 of the Revised Code.

(C) A multiple employer welfare arrangement created pursuant to sections 1739.01 to 1739.22 of the Revised Code shall solicit enrollments only through agents or solicitors licensed pursuant to Chapter 3905. of the Revised Code to sell or solicit sickness and accident insurance.

(D) A multiple employer welfare arrangement created pursuant to sections 1739.01 to 1739.22 of the Revised Code shall provide benefits only to individuals who are members, employees of members, or the dependents of members or employees, or are eligible for continuation of coverage under section 1751.53 or 3923.38 of the Revised Code or under Title X of the "Consolidated Omnibus Budget Reconciliation Act of 1985," 100 Stat. 227, 29 U.S.C.A. 1161, as amended.

(E) A multiple employer welfare arrangement created pursuant to sections 1739.01 to 1739.22 of the Revised Code is subject to, and shall comply with, sections 3903.81 to 3903.93 of the Revised Code in the same manner as other life or health insurers, as defined in section 3903.81 of the Revised Code.

**Sec. 1739.07.** (A)(1) Unless otherwise stated in the agreement, a member may elect to terminate voluntarily its participation in a multiple employer welfare arrangement operating a group self-insurance program by giving no less than thirty days' written notice to the arrangement. Except as provided in division (A)(2) of this section, the voluntary termination shall be approved by the board of the arrangement upon a finding that the member is in good standing, that both the member and the arrangement have met all the requirements of sections 1739.01 to 1739.22 of the Revised Code and any rules adopted by the superintendent of insurance pursuant to such sections, and that the member has complied with all the requirements of the agreement as of the proposed effective date of termination.

(2) If a member voluntarily terminates its participation in a multiple employer welfare arrangement at a time when the total number of covered employees employed by the member represents less than five per cent of the total number of covered employees employed by all members of the arrangement, the member's voluntary termination of its participation, unless otherwise stated in the agreement, does not require approval by the board of the arrangement.

(B)(1) A multiple employer welfare arrangement operating a group self-insurance program may involuntarily terminate a member upon a finding by the board of the arrangement, after notice is given in accordance with division (B)(2) of this section, that the member has done any of the following:

(a) Failed to comply with the requirements of sections 1739.01 to 1739.22 of the Revised Code;

(b) Failed to comply with the articles and bylaws of the arrangement or the applicable agreement;

(c) Failed to pay its proportionate share of any premiums or installments thereof due the arrangement;

(d) Otherwise failed to discharge its obligations to the arrangement when due.

(2) A multiple employer welfare arrangement operating a group self-insurance program shall give the member written notice stating the time when the termination is effective, which time shall not be less than fifteen days from the date of the notice or any longer period as may be specified by

rule of the superintendent or the agreement. Notice may be delivered in person, or sent by any manner permitted in the agreement. The notice may or may not be accompanied by a tender of the unearned premium paid by the member, calculated on a pro rata basis. If the tender is not made simultaneously with the notice, it shall be made within fifteen days after notice of termination unless an audit or rate investigation is required, in which case the tender shall be made as soon as practicable after completion of the audit or investigation.

(C) Any member that terminates its membership or is involuntarily terminated from membership in a multiple employer welfare arrangement pursuant to division (A) or (B) of this section shall remain liable for all obligations of the arrangement incurred during its membership in proportion to the ratio of the total number of covered employees employed by the member at the time of termination to the total number of covered employees employed by all members of the arrangement at the time of termination.

**Sec. 1739.12.** (A) The excess loss funding program of a multiple employer welfare arrangement operating a group self-insurance program shall be filed with the superintendent of insurance.

(B) As a condition to the issuance and maintenance of a certificate of authority, a multiple employer welfare arrangement operating a group self-insurance program shall purchase individual stop-loss insurance from insurers authorized to transact business in this state with a deductible retention of no more than five per cent of the arrangement's annual aggregate premium up to one million dollars and no more than two and one-half per cent of the arrangement's annual aggregate premium above that amount. The arrangement also shall purchase, as a condition to the issuance and maintenance of a certificate of authority, aggregate stop-loss insurance from insurers authorized to transact business in this state with a deductible retention of no more than one hundred twenty-five per cent of its projected claims for the succeeding fiscal year.

(C) Any excess or stop-loss insurance policy purchased by a multiple employer welfare arrangement shall provide that the superintendent must be notified by the arrangement of the cancellation of the policy for any reason, including the failure of the arrangement to pay any applicable premium.

(D) No excess or stop-loss insurance policy purchased by a multiple employer welfare arrangement shall do any of the following on the basis of actual or expected claims for an individual or an individual's given diagnosis:

- (1) Assign a different attachment point for that individual;
- (2) Assign a deductible to that individual that must be met before excess or stop-loss insurance applies;
- (3) Deny excess or stop-loss insurance coverage to that individual.

**Sec. 1739.13.** (A) A multiple employer welfare arrangement operating a group self-insurance program shall maintain a minimum surplus of not less than five hundred thousand dollars or such higher amounts of surplus as the superintendent of insurance may establish by rule for the protection of the members and their employees.

(B) Except as otherwise provided for in sections 1739.01 to 1739.21 of the Revised Code, the assets of a multiple employer welfare arrangement operating a group self-insurance program shall be invested only in securities or other investments permitted by the laws of this state for the investment

of assets of domestic insurance companies other than life.

(C) A multiple employer welfare arrangement operating a group self-insurance program shall maintain assets in cash, receivables, or securities authorized by the laws of this state for the investment of assets of domestic insurance companies other than life in an amount that is equivalent to or higher than the unearned premiums and minimum surplus required under sections 1739.01 to 1739.22 of the Revised Code, the reserves for losses outstanding and unpaid, and any other liabilities of the arrangement.

**Sec. 1739.141.**

**Sec. 1739.20.** (A) No multiple employer welfare arrangement operating a group self-insurance program shall do any of the following:

(1) Refuse, without just cause, to pay proper claims arising under coverage provided by the arrangement;

(2) Compel, without just cause, employee claimants of members or other persons entitled to the proceeds of the coverage to accept less than the amount due them;

(3) Compel, without just cause, employee claimants of members or other persons entitled to the proceeds of the coverage to bring an action against the arrangement to secure full payment or settlement thereof;

(4) Enroll a member into the group self-insurance program until the arrangement has provided to the member written notification stating that the member may be required to make additional payments in the event the program has insufficient funds to cover its liabilities. The arrangement shall maintain a copy of the notification in its program files to evidence compliance with this requirement.

(B) No officer, director, trustee, third-party administrator, member of any board or committee, or employee of a multiple employer welfare arrangement operating a group self-insurance program who is charged with the duty of investing or handling the arrangement's assets shall do any of the following:

(1) Deposit or invest the assets except in the name of the arrangement;

(2) Borrow the assets of the arrangement;

(3) Have a pecuniary interest in any loan, pledge of deposit, security, investment, sale, purchase, exchange, reinsurance, or other similar transaction or property of the arrangement;

(4) Take or receive for personal use any fee, brokerage, commission, gift, or other consideration for, or use any fee, brokerage, commission, gift, or other consideration for, or on account of any transaction made by or on behalf of the arrangement. Division (B)(4) of this section does not prevent either of the following:

(a) The reimbursement of a third-party administrator for administrative services related to the adjustment and settlement of claims pursuant to a contract with an arrangement;

(b) The payment of reasonable compensation to a corporation or firm, which is affiliated with any of the groups listed in division (A) of section 1739.02 of the Revised Code that establishes, maintains, or operates the arrangement, for necessary services performed or sales or purchases made to or for the arrangement in the ordinary course of the arrangement's business.

(C) No multiple employer welfare arrangement operating a group self-insurance program shall guarantee any financial obligation of any of its officers, directors, trustees, board or committee

members, or third-party administrators.

(D) This section does not prohibit a trustee, officer, director, member of a board or committee, or employee of a multiple employer welfare arrangement operating a group self-insurance program from being covered by the arrangement as a member or an employee of a member.

(E) The superintendent of insurance may allow, by rule, exceptions to division (B) of this section to allow the payment of reasonable compensation to a trustee or third-party administrator who is not an officer or employee of the multiple employer welfare arrangement operating a group self-insurance program or to a corporation or firm with which a trustee or third-party administrator is affiliated, for necessary services performed or sales or purchases made to or for the arrangement in the ordinary course of the arrangement's business and in the usual, private, professional or business capacity of the trustee, third-party administrator, corporation, or firm.

**Sec. 1739.21.** (A) The superintendent of insurance, after notice and opportunity for hearing in accordance with Chapter 119. of the Revised Code, may impose a fine upon a multiple employer welfare arrangement operating a group self-insurance program, a third-party administrator, or other entity after finding either of the following:

(1) The arrangement, third-party administrator, or other entity, through the acts of its officers, directors, board or committee members, employees, agents, or representatives, has engaged in an act in violation of any applicable provision of division (B) of section 1739.02, division (F) of section 1739.09, or division (A), (B), or (C) of section 1739.20 of the Revised Code or of any rule or order adopted or issued by the superintendent to enforce or carry out the purposes of such sections;

(2) Division (C)(2), (3), or (4) of section 1739.04 of the Revised Code, or any rule or order adopted or issued by the superintendent to enforce or carry out the purposes of such section, applies to the arrangement, third-party administrator, or other entity.

(B) The fine imposed for any violation described in division (A) of this section shall not exceed one thousand dollars for each violation, except that a fine of not more than five thousand dollars may be imposed for each act of willful misconduct constituting a violation described in division (A) of this section.

(C) In addition to any penalty provided under this section, the superintendent, in lieu of an order of suspension or revocation under section 1739.04 of the Revised Code, may place any multiple employer welfare arrangement on probation for a period not to exceed one year for each violation described in division (A) of this section, and may subject the arrangement to a fine of up to one thousand dollars for each such violation. If the arrangement or its third-party administrator knew or reasonably should have known that the arrangement was engaged in a violation described in division (A) of this section, the fine provided in this division may be increased to an amount up to five thousand dollars for each such violation.

(D)(1) If the superintendent places an arrangement on probation under division (C) of this section, the superintendent may appoint a supervisor to supervise the arrangement and may prohibit the arrangement from doing any of the following, during the period of probation, without the prior approval of the superintendent or the supervisor:

- (a) Dispose of, convey, or encumber any of its assets or its business in force;
- (b) Withdraw from any of its bank accounts;

- (c) Lend any of its funds;
- (d) Invest any of its funds;
- (e) Transfer any of its property;
- (f) Incur any debt, obligation, or liability;
- (g) Merge or consolidate with another company;
- (h) Enter into any new reinsurance contract or treaty.

(2) All expenses incurred as a result of probation shall be borne by the arrangement.

(E) All fines collected under this section shall be paid into the state treasury to the credit of the department of insurance operating fund created under section 3901.021 of the Revised Code.

**Sec. 1751.18.** (A)(1) No health insuring corporation shall cancel or fail to renew the coverage of a subscriber or enrollee because of any health status-related factor in relation to the subscriber or enrollee, the subscriber's or enrollee's requirements for health care services, or for any other reason designated under rules adopted by the superintendent of insurance.

(2) Unless otherwise required by state or federal law, no health insuring corporation, or health care facility or provider through which the health insuring corporation has made arrangements to provide health care services, shall discriminate against any individual with regard to enrollment, disenrollment, or the quality of health care services rendered, on the basis of the individual's race, color, sex, age, religion, military status as defined in section 4112.01 of the Revised Code, or status as a recipient of medicare or medicaid, or any health status-related factor in relation to the individual. However, a health insuring corporation shall not be required to accept a recipient of medicare or medical assistance, if an agreement has not been reached on appropriate payment mechanisms between the health insuring corporation and the governmental agency administering these programs. Further, except for open enrollment coverage under sections 3923.58 and 3923.581 of the Revised Code and except as provided in section 1751.65 of the Revised Code, a health insuring corporation may reject an applicant for nongroup enrollment on the basis of any health status-related factor in relation to the applicant.

(B) A health insuring corporation may cancel or decide not to renew the coverage of an enrollee if the enrollee has performed an act or practice that constitutes fraud or intentional misrepresentation of material fact under the terms of the coverage and if the cancellation or nonrenewal is not based, either directly or indirectly, on any health status-related factor in relation to the enrollee.

(C) An enrollee may appeal any action or decision of a health insuring corporation taken pursuant to section 2742(b) to (e) of the "Health Insurance Portability and Accountability Act of 1996," Pub. L. No. 104-191, 110 Stat. 1955, 42 U.S.C.A. 300gg-42, as amended. To appeal, the enrollee may submit a written complaint to the health insuring corporation pursuant to section 1751.19 of the Revised Code. The enrollee may, within thirty days after receiving a written response from the health insuring corporation, appeal the health insuring corporation's action or decision to the superintendent.

(D) As used in this section, "health status-related factor" means any of the following:

- (1) Health status;
- (2) Medical condition, including both physical and mental illnesses;
- (3) Claims experience;



- (4) Receipt of health care;
- (5) Medical history;
- (6) Genetic information;
- (7) Evidence of insurability, including conditions arising out of acts of domestic violence;
- (8) Disability.

**Sec. 1751.65.** (A) As used in this section, "genetic screening or testing" means a laboratory test of a person's genes or chromosomes for abnormalities, defects, or deficiencies, including carrier status, that are linked to physical or mental disorders or impairments, or that indicate a susceptibility to illness, disease, or other disorders, whether physical or mental, which test is a direct test for abnormalities, defects, or deficiencies, and not an indirect manifestation of genetic disorders.

(B) No health insuring corporation shall do either of the following:

- (1) Consider any information obtained from genetic screening or testing in processing an application for coverage for health care services under an individual or group policy, contract, or agreement or in determining insurability under such a policy, contract, or agreement;
- (2) Inquire, directly or indirectly, into the results of genetic screening or testing or use such information, in whole or in part, to cancel, refuse to issue or renew, limit benefits under, or set premiums for, an individual or group policy, contract, or agreement.

(C) Any health insuring corporation that has engaged in, is engaged in, or is about to engage in a violation of division (B) of this section is subject to the jurisdiction of the superintendent of insurance under section 3901.04 of the Revised Code.

**Sec. 1776.82.** (A) The name of a limited liability partnership shall contain "registered limited liability partnership," "registered partnership having limited liability," "limited liability partnership," "R.L.L.P.," "P.L.L.," "L.L.P.," "RLLP," "PLL," or "LLP."

(B) The name of a domestic registered limited liability partnership or foreign limited liability partnership shall be distinguishable upon the records in the office of the secretary of state from all of the following:

- (1) The name of any other limited liability partnership registered in the office of the secretary of state pursuant to this chapter or Chapter 1775. of the Revised Code, whether domestic or foreign;
- (2) The name of any domestic corporation that is formed under Chapter 1701. or 1702. of the Revised Code or any foreign corporation that is registered pursuant to Chapter 1703. of the Revised Code;
- (3) The name of any limited liability company registered in the office of the secretary of state pursuant to Chapter 1705. of the Revised Code, whether domestic or foreign;
- (4) The name of any limited partnership registered in the office of the secretary of state pursuant to Chapter 1782. of the Revised Code, whether domestic or foreign;
- (5) Any trade name the exclusive right to which is at the time in question registered in the office of the secretary of state pursuant to Chapter 1329. of the Revised Code.

**Sec. 2106.19.** (A) Upon the death of a married resident who owned at least one watercraft, one watercraft trailer, one outboard motor, or one of each at the time of death, the interest of the deceased spouse in one watercraft, one watercraft trailer, one outboard motor, or one of each that is not otherwise specifically disposed of by testamentary disposition and that is selected by the surviving spouse immediately shall pass to the surviving spouse upon receipt by the clerk of the court

of common pleas, or in the case of an untitled but registered watercraft trailer, upon receipt by the bureau of motor vehicles, of both of the following:

(1) The title executed by the surviving spouse, if titled;

(2) An affidavit sworn by the surviving spouse stating the date of the decedent's death, a description of the watercraft, watercraft trailer, or outboard motor, the approximate value, and that the watercraft, watercraft trailer, or outboard motor is not disposed of by testamentary disposition.

The watercraft, watercraft trailer, or outboard motor shall not be considered an estate asset and shall not be included and stated in the estate inventory.

Transfer of a decedent's interest under this division does not affect the existence of any lien against a watercraft, watercraft trailer, or outboard motor so transferred.

(B) Except for a watercraft, watercraft trailer, or outboard motor transferred as provided in division (A) of this section, the executor or administrator may transfer title to a watercraft, watercraft trailer, or outboard motor in the manner provided for transfer of an automobile under divisions (B) and (C) of section 2106.18 of the Revised Code.

(C) A watercraft trailer under this section only refers to one trailer used to transport the watercraft transferred under this section.

**Sec. 2109.301.** (A) An administrator or executor shall render an account at any time other than a time otherwise mentioned in this section upon an order of the probate court issued for good cause shown either at its own instance or upon the motion of any person interested in the estate. Except as otherwise provided in division (B)(2) of this section, an administrator or executor shall render a final account within thirty days after completing the administration of the estate or within any other period of time that the court may order.

Every account shall include an itemized statement of all receipts of the administrator or executor during the accounting period and of all disbursements and distributions made by the executor or administrator during the accounting period. In addition, the account shall include an itemized statement of all funds, assets, and investments of the estate known to or in the possession of the administrator or executor at the end of the accounting period and shall show any changes in investments since the last previous account.

Every account shall be upon the signature of the administrator or executor. When two or more administrators or executors render an account, the court may allow the account upon the signature of one of them. The court may examine the administrator or executor under oath concerning the account.

When an administrator or executor is authorized by law or by the instrument governing distribution to distribute the assets of the estate, in whole or in part, the administrator or executor may do so and include a report of the distribution in the administrator's or executor's succeeding account.

In estates of decedents in which none of the legatees, devisees, or heirs is under a legal disability, each partial accounting of an executor or administrator may be waived by the written consent of all the legatees, devisees, or heirs filed in lieu of a partial accounting otherwise required.

(B)(1) Every administrator and executor, within six months after appointment, shall render a final and distributive account of the administrator's or executor's administration of the estate unless one or more of the following circumstances apply:

- (a) An Ohio estate tax return must be filed for the estate.
  - (b) A proceeding contesting the validity of the decedent's will pursuant to section 2107.71 of the Revised Code has been commenced.
  - (c) The surviving spouse has filed an election to take against the will.
  - (d) The administrator or executor is a party in a civil action.
  - (e) The estate is insolvent.
  - (f) The decedent's will provides that a posthumously born child or heir, which includes a child or heir born through the use of assisted reproductive technologies as defined in section 5801.12 of the Revised Code, shall inherit under the will as provided in section 2107.34 of the Revised Code.
  - (g) For other reasons set forth by the administrator or executor, subject to court approval, it would be detrimental to the estate and its beneficiaries or heirs to file a final and distributive account.
- (2) In estates of decedents in which the sole legatee, devisee, or heir is also the administrator or executor of the estate, no partial accountings are required. The administrator or executor of an estate of that type shall file a final account or final and distributive account or, in lieu of filing a final account, the administrator or executor may file with the court within thirty days after completing the administration of the estate a certificate of termination of an estate that states all of the following:
- (a) All debts and claims presented to the estate have been paid in full or settled finally.
  - (b) An estate tax return, if required under the provisions of the Internal Revenue Code or Chapter 5731. of the Revised Code, has been filed, and any estate tax has been paid.
  - (c) All attorney's fees have been waived by or paid to counsel of record of the estate, and all executor or administrator fees have been waived or paid.
  - (d) The amount of attorney's fees and the amount of administrator or executor fees that have been paid.
  - (e) All assets remaining after completion of the activities described in divisions (B)(2)(a) to (d) of this section have been distributed to the sole legatee, devisee, or heir.
- (3) In an estate of the type described in division (B)(2) of this section, a sole legatee, devisee, or heir of a decedent may be liable to creditors for debts of and claims against the estate that are presented after the filing of the certificate of termination described in that division and within the time allowed by section 2117.06 of the Revised Code for presentation of the creditors' claims.
- (4) Not later than thirteen months after appointment, every administrator and executor shall render an account of the administrator's or executor's administration, unless a partial account is waived under division (A) of this section or a certificate of termination is filed under division (B)(2) of this section. After the initial account is rendered or a waiver of a partial account is filed, every administrator and executor shall, at least once each year, render further accounts or file waivers of partial accounts until the estate is closed, unless a certificate of termination is filed under division (B)(2) of this section.

**Sec. 2113.35.** (A) Executors and administrators shall be allowed fees upon the amount of all the personal property, including the income from the personal property, that is received and accounted for by them and upon the proceeds of real property that is sold, as follows:

- (1) For the first one hundred thousand dollars, at the rate of four per cent;
- (2) All above one hundred thousand dollars and not exceeding four hundred thousand dollars, at the rate of three per cent;

(3) All above four hundred thousand dollars, at the rate of two per cent.

(B) Executors and administrators shall be allowed a fee of one per cent on the value of real property that is not sold. Executors and administrators also shall be allowed a fee of one per cent on the value of all property that is not subject to administration and that would have been includable for purposes of computing the Ohio estate tax, except joint and survivorship property, had the decedent died on December 31, 2012, so that section 5731.02 of the Revised Code applied to the estate.

(C) The basis of valuation for the allowance of the fees on real property sold shall be the gross proceeds of sale, and for all other property the fair market value of the other property as of the date of death of the decedent. The fees allowed to executors and administrators in this section shall be received in full compensation for all their ordinary services.

(D) If the probate court finds, after a hearing, that an executor or administrator, in any respect, has not faithfully discharged the duties as executor or administrator, the court may deny the executor or administrator any compensation whatsoever or may allow the executor or administrator the reduced compensation that the court thinks proper.

**Sec. 2151.011.** (A) As used in the Revised Code:

(1) "Juvenile court" means whichever of the following is applicable that has jurisdiction under this chapter and Chapter 2152. of the Revised Code:

(a) The division of the court of common pleas specified in section 2101.022 or 2301.03 of the Revised Code as having jurisdiction under this chapter and Chapter 2152. of the Revised Code or as being the juvenile division or the juvenile division combined with one or more other divisions;

(b) The juvenile court of Cuyahoga county or Hamilton county that is separately and independently created by section 2151.08 or Chapter 2153. of the Revised Code and that has jurisdiction under this chapter and Chapter 2152. of the Revised Code;

(c) If division (A)(1)(a) or (b) of this section does not apply, the probate division of the court of common pleas.

(2) "Juvenile judge" means a judge of a court having jurisdiction under this chapter.

(3) "Private child placing agency" means any association, as defined in section 5103.02 of the Revised Code, that is certified under section 5103.03 of the Revised Code to accept temporary, permanent, or legal custody of children and place the children for either foster care or adoption.

(4) "Private noncustodial agency" means any person, organization, association, or society certified by the department of job and family services that does not accept temporary or permanent legal custody of children, that is privately operated in this state, and that does one or more of the following:

(a) Receives and cares for children for two or more consecutive weeks;

(b) Participates in the placement of children in certified foster homes;

(c) Provides adoption services in conjunction with a public children services agency or private child placing agency.

(B) As used in this chapter:

(1) "Adequate parental care" means the provision by a child's parent or parents, guardian, or custodian of adequate food, clothing, and shelter to ensure the child's health and physical safety and the provision by a child's parent or parents of specialized services warranted by the child's physical or mental needs.

(2) "Adult" means an individual who is eighteen years of age or older.

(3) "Agreement for temporary custody" means a voluntary agreement authorized by section 5103.15 of the Revised Code that transfers the temporary custody of a child to a public children services agency or a private child placing agency.

(4) "Alternative response" means the public children services agency's response to a report of child abuse or neglect that engages the family in a comprehensive evaluation of child safety, risk of subsequent harm, and family strengths and needs and that does not include a determination as to whether child abuse or neglect occurred.

(5) "Certified foster home" means a foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code.

(6) "Child" means a person who is under eighteen years of age, except that the juvenile court has jurisdiction over any person who is adjudicated an unruly child prior to attaining eighteen years of age until the person attains twenty-one years of age, and, for purposes of that jurisdiction related to that adjudication, a person who is so adjudicated an unruly child shall be deemed a "child" until the person attains twenty-one years of age.

(7) "Child day camp," "child care," "child day-care center," "part-time child day-care center," "type A family day-care home," "licensed type B family day-care home," "type B family day-care home," "administrator of a child day-care center," "administrator of a type A family day-care home," and "in-home aide" have the same meanings as in section 5104.01 of the Revised Code.

(8) "Child care provider" means an individual who is a child-care staff member or administrator of a child day-care center, a type A family day-care home, or a type B family day-care home, or an in-home aide or an individual who is licensed, is regulated, is approved, operates under the direction of, or otherwise is certified by the department of job and family services, department of developmental disabilities, or the early childhood programs of the department of education.

(9) "Commit" means to vest custody as ordered by the court.

(10) "Counseling" includes both of the following:

(a) General counseling services performed by a public children services agency or shelter for victims of domestic violence to assist a child, a child's parents, and a child's siblings in alleviating identified problems that may cause or have caused the child to be an abused, neglected, or dependent child.

(b) Psychiatric or psychological therapeutic counseling services provided to correct or alleviate any mental or emotional illness or disorder and performed by a licensed psychiatrist, licensed psychologist, or a person licensed under Chapter 4757. of the Revised Code to engage in social work or professional counseling.

(11) "Custodian" means a person who has legal custody of a child or a public children services agency or private child placing agency that has permanent, temporary, or legal custody of a child.

(12) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code.

(13) "Detention" means the temporary care of children pending court adjudication or disposition, or execution of a court order, in a public or private facility designed to physically restrict the movement and activities of children.

(14) "Developmental disability" has the same meaning as in section 5123.01 of the Revised

Code.

(15) "Differential response approach" means an approach that a public children services agency may use to respond to accepted reports of child abuse or neglect with either an alternative response or a traditional response.

(16) "Foster caregiver" has the same meaning as in section 5103.02 of the Revised Code.

(17) "Guardian" means a person, association, or corporation that is granted authority by a probate court pursuant to Chapter 2111. of the Revised Code to exercise parental rights over a child to the extent provided in the court's order and subject to the residual parental rights of the child's parents.

(18) "Habitual truant" means any child of compulsory school age who is absent without legitimate excuse for absence from the public school the child is supposed to attend for thirty or more consecutive hours, forty-two or more hours in one school month, or seventy-two or more hours in a school year.

(19) "Intellectual disability" has the same meaning as in section 5123.01 of the Revised Code.

(20) "Juvenile traffic offender" has the same meaning as in section 2152.02 of the Revised Code.

(21) "Legal custody" means a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by any section of the Revised Code or by the court.

(22) A "legitimate excuse for absence from the public school the child is supposed to attend" includes, but is not limited to, any of the following:

(a) The fact that the child in question has enrolled in and is attending another public or nonpublic school in this or another state;

(b) The fact that the child in question is excused from attendance at school for any of the reasons specified in section 3321.04 of the Revised Code;

(c) The fact that the child in question has received an age and schooling certificate in accordance with section 3331.01 of the Revised Code.

(23) "Mental illness" has the same meaning as in section 5122.01 of the Revised Code.

(24) "Mental injury" means any behavioral, cognitive, emotional, or mental disorder in a child caused by an act or omission that is described in section 2919.22 of the Revised Code and is committed by the parent or other person responsible for the child's care.

(25) "Nonsecure care, supervision, or training" means care, supervision, or training of a child in a facility that does not confine or prevent movement of the child within the facility or from the facility.

(26) "Of compulsory school age" has the same meaning as in section 3321.01 of the Revised Code.

(27) "Organization" means any institution, public, semipublic, or private, and any private association, society, or agency located or operating in the state, incorporated or unincorporated,

having among its functions the furnishing of protective services or care for children, or the placement of children in certified foster homes or elsewhere.

(28) "Out-of-home care" means detention facilities, shelter facilities, certified children's crisis care facilities, certified foster homes, placement in a prospective adoptive home prior to the issuance of a final decree of adoption, organizations, certified organizations, child day-care centers, type A family day-care homes, type B family day-care homes, child care provided by in-home aides, group home providers, group homes, institutions, state institutions, residential facilities, residential care facilities, residential camps, day camps, private, nonprofit therapeutic wilderness camps, public schools, chartered nonpublic schools, educational service centers, hospitals, and medical clinics that are responsible for the care, physical custody, or control of children.

(29) "Out-of-home care child abuse" means any of the following when committed by a person responsible for the care of a child in out-of-home care:

- (a) Engaging in sexual activity with a child in the person's care;
- (b) Denial to a child, as a means of punishment, of proper or necessary subsistence, education, medical care, or other care necessary for a child's health;
- (c) Use of restraint procedures on a child that cause injury or pain;
- (d) Administration of prescription drugs or psychotropic medication to the child without the written approval and ongoing supervision of a licensed physician;
- (e) Commission of any act, other than by accidental means, that results in any injury to or death of the child in out-of-home care or commission of any act by accidental means that results in an injury to or death of a child in out-of-home care and that is at variance with the history given of the injury or death.

(30) "Out-of-home care child neglect" means any of the following when committed by a person responsible for the care of a child in out-of-home care:

- (a) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child;
- (b) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child, that results in sexual or physical abuse of the child by any person;
- (c) Failure to develop a process for all of the following:
  - (i) Administration of prescription drugs or psychotropic drugs for the child;
  - (ii) Assuring that the instructions of the licensed physician who prescribed a drug for the child are followed;
  - (iii) Reporting to the licensed physician who prescribed the drug all unfavorable or dangerous side effects from the use of the drug.
- (d) Failure to provide proper or necessary subsistence, education, medical care, or other individualized care necessary for the health or well-being of the child;
- (e) Confinement of the child to a locked room without monitoring by staff;
- (f) Failure to provide ongoing security for all prescription and nonprescription medication;
- (g) Isolation of a child for a period of time when there is substantial risk that the isolation, if continued, will impair or retard the mental health or physical well-being of the child.

(31) "Permanent custody" means a legal status that vests in a public children services agency

or a private child placing agency, all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or adoptive parents of all parental rights, privileges, and obligations, including all residual rights and obligations.

(32) "Permanent surrender" means the act of the parents or, if a child has only one parent, of the parent of a child, by a voluntary agreement authorized by section 5103.15 of the Revised Code, to transfer the permanent custody of the child to a public children services agency or a private child placing agency.

(33) "Person" means an individual, association, corporation, or partnership and the state or any of its political subdivisions, departments, or agencies.

(34) "Person responsible for a child's care in out-of-home care" means any of the following:

(a) Any foster caregiver, in-home aide, or provider;

(b) Any administrator, employee, or agent of any of the following: a public or private detention facility; shelter facility; certified children's crisis care facility; organization; certified organization; child day-care center; type A family day-care home; licensed type B family day-care home; group home; institution; state institution; residential facility; residential care facility; residential camp; day camp; school district; community school; chartered nonpublic school; educational service center; hospital; or medical clinic;

(c) Any person who supervises or coaches children as part of an extracurricular activity sponsored by a school district, public school, or chartered nonpublic school;

(d) Any other person who performs a similar function with respect to, or has a similar relationship to, children.

(35) "Physical impairment" means having one or more of the following conditions that substantially limit one or more of an individual's major life activities, including self-care, receptive and expressive language, learning, mobility, and self-direction:

(a) A substantial impairment of vision, speech, or hearing;

(b) A congenital orthopedic impairment;

(c) An orthopedic impairment caused by disease, rheumatic fever or any other similar chronic or acute health problem, or amputation or another similar cause.

(36) "Placement for adoption" means the arrangement by a public children services agency or a private child placing agency with a person for the care and adoption by that person of a child of whom the agency has permanent custody.

(37) "Placement in foster care" means the arrangement by a public children services agency or a private child placing agency for the out-of-home care of a child of whom the agency has temporary custody or permanent custody.

(38) "Planned permanent living arrangement" means an order of a juvenile court pursuant to which both of the following apply:

(a) The court gives legal custody of a child to a public children services agency or a private child placing agency without the termination of parental rights.

(b) The order permits the agency to make an appropriate placement of the child and to enter into a written agreement with a foster care provider or with another person or agency with whom the child is placed.

(39) "Practice of social work" and "practice of professional counseling" have the same



meanings as in section 4757.01 of the Revised Code.

(40) "Private, nonprofit therapeutic wilderness camp" has the same meaning as in section 5103.02 of the Revised Code.

(41) "Sanction, service, or condition" means a sanction, service, or condition created by court order following an adjudication that a child is an unruly child that is described in division (A)(4) of section 2152.19 of the Revised Code.

(42) "Protective supervision" means an order of disposition pursuant to which the court permits an abused, neglected, dependent, or unruly child to remain in the custody of the child's parents, guardian, or custodian and stay in the child's home, subject to any conditions and limitations upon the child, the child's parents, guardian, or custodian, or any other person that the court prescribes, including supervision as directed by the court for the protection of the child.

(43) "Psychiatrist" has the same meaning as in section 5122.01 of the Revised Code.

(44) "Psychologist" has the same meaning as in section 4732.01 of the Revised Code.

(45) "Residential camp" means a program in which the care, physical custody, or control of children is accepted overnight for recreational or recreational and educational purposes.

(46) "Residential care facility" means an institution, residence, or facility that is licensed by the department of mental health and addiction services under section 5119.34 of the Revised Code and that provides care for a child.

(47) "Residential facility" means a home or facility that is licensed by the department of developmental disabilities under section 5123.19 of the Revised Code and in which a child with a developmental disability resides.

(48) "Residual parental rights, privileges, and responsibilities" means those rights, privileges, and responsibilities remaining with the natural parent after the transfer of legal custody of the child, including, but not necessarily limited to, the privilege of reasonable visitation, consent to adoption, the privilege to determine the child's religious affiliation, and the responsibility for support.

(49) "School day" means the school day established by the board of education of the applicable school district pursuant to section 3313.481 of the Revised Code.

(50) "School year" has the same meaning as in section 3313.62 of the Revised Code.

(51) "Secure correctional facility" means a facility under the direction of the department of youth services that is designed to physically restrict the movement and activities of children and used for the placement of children after adjudication and disposition.

(52) "Sexual activity" has the same meaning as in section 2907.01 of the Revised Code.

(53) "Shelter" means the temporary care of children in physically unrestricted facilities pending court adjudication or disposition.

(54) "Shelter for victims of domestic violence" has the same meaning as in section 3113.33 of the Revised Code.

(55) "Temporary custody" means legal custody of a child who is removed from the child's home, which custody may be terminated at any time at the discretion of the court or, if the legal custody is granted in an agreement for temporary custody, by the person who executed the agreement.

(56) "Traditional response" means a public children services agency's response to a report of child abuse or neglect that encourages engagement of the family in a comprehensive evaluation of

the child's current and future safety needs and a fact-finding process to determine whether child abuse or neglect occurred and the circumstances surrounding the alleged harm or risk of harm.

(C) For the purposes of this chapter, a child shall be presumed abandoned when the parents of the child have failed to visit or maintain contact with the child for more than ninety days, regardless of whether the parents resume contact with the child after that period of ninety days.

**Sec. 2151.3514.** (A) As used in this section:

(1) "Community addiction services provider" has the same meaning as in section 5119.01 of the Revised Code;

(2) "Chemical dependency" means either of the following:

(a) The chronic and habitual use of alcoholic beverages to the extent that the user no longer can control the use of alcohol or endangers the user's health, safety, or welfare or that of others;

(b) The use of a drug of abuse to the extent that the user becomes physically or psychologically dependent on the drug or endangers the user's health, safety, or welfare or that of others.

(3) "Drug of abuse" has the same meaning as in section 3719.011 of the Revised Code.

(B) If the juvenile court issues an order of temporary custody or protective supervision under division (A) of section 2151.353 of the Revised Code with respect to a child adjudicated to be an abused, neglected, or dependent child and the alcohol or other drug addiction of a parent or other caregiver of the child was the basis for the adjudication of abuse, neglect, or dependency, the court shall issue an order requiring the parent or other caregiver to submit to an assessment and, if needed, treatment from a community addiction services provider. The court may order the parent or other caregiver to submit to alcohol or other drug testing during, after, or both during and after, the treatment. The court shall send any order issued pursuant to this division to the public children services agency that serves the county in which the court is located for use as described in section 340.15 of the Revised Code.

(C) Any order requiring alcohol or other drug testing that is issued pursuant to division (B) of this section shall require one alcohol or other drug test to be conducted each month during a period of twelve consecutive months beginning the month immediately following the month in which the order for alcohol or other drug testing is issued. Arrangements for administering the alcohol or other drug tests, as well as funding the costs of the tests, shall be locally determined in accordance with sections 340.03 and 340.15 of the Revised Code. If a parent or other caregiver required to submit to alcohol or other drug tests under this section is not a recipient of medicaid, the agency that refers the parent or caregiver for the tests may require the parent or caregiver to reimburse the agency for the cost of conducting the tests.

(D) The community addiction services provider that conducts any alcohol or other drug tests ordered in accordance with divisions (B) and (C) of this section shall send the results of the tests, along with the provider's recommendations as to the benefits of continued treatment, to the court and to the public children services agency providing services to the involved family, according to federal regulations set forth in 42 C.F.R. Part 2, and division (B) of section 340.15 of the Revised Code. The court shall consider the results and the recommendations sent to it under this division in any adjudication or review by the court, according to section 2151.353, 2151.414, or 2151.419 of the Revised Code.

**Sec. 2151.421.** (A)(1)(a) No person described in division (A)(1)(b) of this section who is acting in an official or professional capacity and knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect, that a child under eighteen years of age, or a person under twenty-one years of age with a developmental disability or physical impairment, has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child shall fail to immediately report that knowledge or reasonable cause to suspect to the entity or persons specified in this division. Except as provided in section 5120.173 of the Revised Code, the person making the report shall make it to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. In the circumstances described in section 5120.173 of the Revised Code, the person making the report shall make it to the entity specified in that section.

(b) Division (A)(1)(a) of this section applies to any person who is an attorney; health care professional; practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code; licensed school psychologist; independent marriage and family therapist or marriage and family therapist; coroner; administrator or employee of a child day-care center; administrator or employee of a residential camp, child day camp, or private, nonprofit therapeutic wilderness camp; administrator or employee of a certified child care agency or other public or private children services agency; school teacher; school employee; school authority; agent of a county humane society; person, other than a cleric, rendering spiritual treatment through prayer in accordance with the tenets of a well-recognized religion; employee of a county department of job and family services who is a professional and who works with children and families; superintendent or regional administrator employed by the department of youth services; superintendent, board member, or employee of a county board of developmental disabilities; investigative agent contracted with by a county board of developmental disabilities; employee of the department of developmental disabilities; employee of a facility or home that provides respite care in accordance with section 5123.171 of the Revised Code; employee of an entity that provides homemaker services; a person performing the duties of an assessor pursuant to Chapter 3107. or 5103. of the Revised Code; third party employed by a public children services agency to assist in providing child or family related services; court appointed special advocate; or guardian ad litem.

(c) If two or more health care professionals, after providing health care services to a child, determine or suspect that the child has been or is being abused or neglected, the health care professionals may designate one of the health care professionals to report the abuse or neglect. A single report made under this division shall meet the reporting requirements of division (A)(1) of this section.

(2) Except as provided in division (A)(3) of this section, an attorney or a physician is not required to make a report pursuant to division (A)(1) of this section concerning any communication the attorney or physician receives from a client or patient in an attorney-client or physician-patient relationship, if, in accordance with division (A) or (B) of section 2317.02 of the Revised Code, the attorney or physician could not testify with respect to that communication in a civil or criminal proceeding.

(3) The client or patient in an attorney-client or physician-patient relationship described in

division (A)(2) of this section is deemed to have waived any testimonial privilege under division (A) or (B) of section 2317.02 of the Revised Code with respect to any communication the attorney or physician receives from the client or patient in that attorney-client or physician-patient relationship, and the attorney or physician shall make a report pursuant to division (A)(1) of this section with respect to that communication, if all of the following apply:

(a) The client or patient, at the time of the communication, is a child under eighteen years of age or is a person under twenty-one years of age with a developmental disability or physical impairment.

(b) The attorney or physician knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in similar position to suspect that the client or patient has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the client or patient.

(c) The abuse or neglect does not arise out of the client's or patient's attempt to have an abortion without the notification of her parents, guardian, or custodian in accordance with section 2151.85 of the Revised Code.

(4)(a) No cleric and no person, other than a volunteer, designated by any church, religious society, or faith acting as a leader, official, or delegate on behalf of the church, religious society, or faith who is acting in an official or professional capacity, who knows, or has reasonable cause to believe based on facts that would cause a reasonable person in a similar position to believe, that a child under eighteen years of age, or a person under twenty-one years of age with a developmental disability or physical impairment, has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child, and who knows, or has reasonable cause to believe based on facts that would cause a reasonable person in a similar position to believe, that another cleric or another person, other than a volunteer, designated by a church, religious society, or faith acting as a leader, official, or delegate on behalf of the church, religious society, or faith caused, or poses the threat of causing, the wound, injury, disability, or condition that reasonably indicates abuse or neglect shall fail to immediately report that knowledge or reasonable cause to believe to the entity or persons specified in this division. Except as provided in section 5120.173 of the Revised Code, the person making the report shall make it to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. In the circumstances described in section 5120.173 of the Revised Code, the person making the report shall make it to the entity specified in that section.

(b) Except as provided in division (A)(4)(c) of this section, a cleric is not required to make a report pursuant to division (A)(4)(a) of this section concerning any communication the cleric receives from a penitent in a cleric-penitent relationship, if, in accordance with division (C) of section 2317.02 of the Revised Code, the cleric could not testify with respect to that communication in a civil or criminal proceeding.

(c) The penitent in a cleric-penitent relationship described in division (A)(4)(b) of this section is deemed to have waived any testimonial privilege under division (C) of section 2317.02 of the Revised Code with respect to any communication the cleric receives from the penitent in that cleric-penitent relationship, and the cleric shall make a report pursuant to division (A)(4)(a) of this section

with respect to that communication, if all of the following apply:

(i) The penitent, at the time of the communication, is a child under eighteen years of age or is a person under twenty-one years of age with a developmental disability or physical impairment.

(ii) The cleric knows, or has reasonable cause to believe based on facts that would cause a reasonable person in a similar position to believe, as a result of the communication or any observations made during that communication, the penitent has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the penitent.

(iii) The abuse or neglect does not arise out of the penitent's attempt to have an abortion performed upon a child under eighteen years of age or upon a person under twenty-one years of age with a developmental disability or physical impairment without the notification of her parents, guardian, or custodian in accordance with section 2151.85 of the Revised Code.

(d) Divisions (A)(4)(a) and (c) of this section do not apply in a cleric-penitent relationship when the disclosure of any communication the cleric receives from the penitent is in violation of the sacred trust.

(e) As used in divisions (A)(1) and (4) of this section, "cleric" and "sacred trust" have the same meanings as in section 2317.02 of the Revised Code.

(B) Anyone who knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in similar circumstances to suspect, that a child under eighteen years of age, or a person under twenty-one years of age with a developmental disability or physical impairment, has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or other condition of a nature that reasonably indicates abuse or neglect of the child may report or cause reports to be made of that knowledge or reasonable cause to suspect to the entity or persons specified in this division. Except as provided in section 5120.173 of the Revised Code, a person making a report or causing a report to be made under this division shall make it or cause it to be made to the public children services agency or to a municipal or county peace officer. In the circumstances described in section 5120.173 of the Revised Code, a person making a report or causing a report to be made under this division shall make it or cause it to be made to the entity specified in that section.

(C) Any report made pursuant to division (A) or (B) of this section shall be made forthwith either by telephone or in person and shall be followed by a written report, if requested by the receiving agency or officer. The written report shall contain:

(1) The names and addresses of the child and the child's parents or the person or persons having custody of the child, if known;

(2) The child's age and the nature and extent of the child's injuries, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to have occurred or of the threat of injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to exist, including any evidence of previous injuries, abuse, or neglect;

(3) Any other information, including, but not limited to, results and reports of any medical examinations, tests, or procedures performed under division (D) of this section, that might be helpful in establishing the cause of the injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to have occurred or of the threat of injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to exist.

(D)(1) Any person, who is required by division (A) of this section to report child abuse or child neglect that is known or reasonably suspected or believed to have occurred, may take or cause to be taken color photographs of areas of trauma visible on a child and, if medically necessary for the purpose of diagnosing or treating injuries that are suspected to have occurred as a result of child abuse or child neglect, perform or cause to be performed radiological examinations and any other medical examinations of, and tests or procedures on, the child.

(2) The results and any available reports of examinations, tests, or procedures made under division (D)(1) of this section shall be included in a report made pursuant to division (A) of this section. Any additional reports of examinations, tests, or procedures that become available shall be provided to the public children services agency, upon request.

(3) If a health care professional provides health care services in a hospital, children's advocacy center, or emergency medical facility to a child about whom a report has been made under division (A) of this section, the health care professional may take any steps that are reasonably necessary for the release or discharge of the child to an appropriate environment. Before the child's release or discharge, the health care professional may obtain information, or consider information obtained, from other entities or individuals that have knowledge about the child. Nothing in division (D)(3) of this section shall be construed to alter the responsibilities of any person under sections 2151.27 and 2151.31 of the Revised Code.

(4) A health care professional may conduct medical examinations, tests, or procedures on the siblings of a child about whom a report has been made under division (A) of this section and on other children who reside in the same home as the child, if the professional determines that the examinations, tests, or procedures are medically necessary to diagnose or treat the siblings or other children in order to determine whether reports under division (A) of this section are warranted with respect to such siblings or other children. The results of the examinations, tests, or procedures on the siblings and other children may be included in a report made pursuant to division (A) of this section.

(5) Medical examinations, tests, or procedures conducted under divisions (D)(1) and (4) of this section and decisions regarding the release or discharge of a child under division (D)(3) of this section do not constitute a law enforcement investigation or activity.

(E)(1) When a municipal or county peace officer receives a report concerning the possible abuse or neglect of a child or the possible threat of abuse or neglect of a child, upon receipt of the report, the municipal or county peace officer who receives the report shall refer the report to the appropriate public children services agency.

(2) When a public children services agency receives a report pursuant to this division or division (A) or (B) of this section, upon receipt of the report, the public children services agency shall do both of the following:

(a) Comply with section 2151.422 of the Revised Code;

(b) If the county served by the agency is also served by a children's advocacy center and the report alleges sexual abuse of a child or another type of abuse of a child that is specified in the memorandum of understanding that creates the center as being within the center's jurisdiction, comply regarding the report with the protocol and procedures for referrals and investigations, with the coordinating activities, and with the authority or responsibility for performing or providing functions, activities, and services stipulated in the interagency agreement entered into under section

2151.428 of the Revised Code relative to that center.

(F) No township, municipal, or county peace officer shall remove a child about whom a report is made pursuant to this section from the child's parents, stepparents, or guardian or any other persons having custody of the child without consultation with the public children services agency, unless, in the judgment of the officer, and, if the report was made by physician, the physician, immediate removal is considered essential to protect the child from further abuse or neglect. The agency that must be consulted shall be the agency conducting the investigation of the report as determined pursuant to section 2151.422 of the Revised Code.

(G)(1) Except as provided in section 2151.422 of the Revised Code or in an interagency agreement entered into under section 2151.428 of the Revised Code that applies to the particular report, the public children services agency shall investigate, within twenty-four hours, each report of child abuse or child neglect that is known or reasonably suspected or believed to have occurred and of a threat of child abuse or child neglect that is known or reasonably suspected or believed to exist that is referred to it under this section to determine the circumstances surrounding the injuries, abuse, or neglect or the threat of injury, abuse, or neglect, the cause of the injuries, abuse, neglect, or threat, and the person or persons responsible. The investigation shall be made in cooperation with the law enforcement agency and in accordance with the memorandum of understanding prepared under division (K) of this section. A representative of the public children services agency shall, at the time of initial contact with the person subject to the investigation, inform the person of the specific complaints or allegations made against the person. The information shall be given in a manner that is consistent with division (I)(1) of this section and protects the rights of the person making the report under this section.

A failure to make the investigation in accordance with the memorandum is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from the report or the suppression of any evidence obtained as a result of the report and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person. The public children services agency shall report each case to the uniform statewide automated child welfare information system that the department of job and family services shall maintain in accordance with section 5101.13 of the Revised Code. The public children services agency shall submit a report of its investigation, in writing, to the law enforcement agency.

(2) The public children services agency shall make any recommendations to the county prosecuting attorney or city director of law that it considers necessary to protect any children that are brought to its attention.

(H)(1)(a) Except as provided in divisions (H)(1)(b) and (I)(3) of this section, any person, health care professional, hospital, institution, school, health department, or agency shall be immune from any civil or criminal liability for injury, death, or loss to person or property that otherwise might be incurred or imposed as a result of any of the following:

(i) Participating in the making of reports pursuant to division (A) of this section or in the making of reports in good faith, pursuant to division (B) of this section;

(ii) Participating in medical examinations, tests, or procedures under division (D) of this section;

(iii) Providing information used in a report made pursuant to division (A) of this section or

providing information in good faith used in a report made pursuant to division (B) of this section;

(iv) Participating in a judicial proceeding resulting from a report made pursuant to division (A) of this section or participating in good faith in a proceeding resulting from a report made pursuant to division (B) of this section.

(b) Immunity under division (H)(1)(a)(ii) of this section shall not apply when a health care provider has deviated from the standard of care applicable to the provider's profession.

(c) Notwithstanding section 4731.22 of the Revised Code, the physician-patient privilege shall not be a ground for excluding evidence regarding a child's injuries, abuse, or neglect, or the cause of the injuries, abuse, or neglect in any judicial proceeding resulting from a report submitted pursuant to this section.

(2) In any civil or criminal action or proceeding in which it is alleged and proved that participation in the making of a report under this section was not in good faith or participation in a judicial proceeding resulting from a report made under this section was not in good faith, the court shall award the prevailing party reasonable attorney's fees and costs and, if a civil action or proceeding is voluntarily dismissed, may award reasonable attorney's fees and costs to the party against whom the civil action or proceeding is brought.

(I)(1) Except as provided in divisions (I)(4) and (O) of this section, a report made under this section is confidential. The information provided in a report made pursuant to this section and the name of the person who made the report shall not be released for use, and shall not be used, as evidence in any civil action or proceeding brought against the person who made the report. Nothing in this division shall preclude the use of reports of other incidents of known or suspected abuse or neglect in a civil action or proceeding brought pursuant to division (N) of this section against a person who is alleged to have violated division (A)(1) of this section, provided that any information in a report that would identify the child who is the subject of the report or the maker of the report, if the maker of the report is not the defendant or an agent or employee of the defendant, has been redacted. In a criminal proceeding, the report is admissible in evidence in accordance with the Rules of Evidence and is subject to discovery in accordance with the Rules of Criminal Procedure.

(2)(a) Except as provided in division (I)(2)(b) of this section, no person shall permit or encourage the unauthorized dissemination of the contents of any report made under this section.

(b) A health care professional that obtains the same information contained in a report made under this section from a source other than the report may disseminate the information, if its dissemination is otherwise permitted by law.

(3) A person who knowingly makes or causes another person to make a false report under division (B) of this section that alleges that any person has committed an act or omission that resulted in a child being an abused child or a neglected child is guilty of a violation of section 2921.14 of the Revised Code.

(4) If a report is made pursuant to division (A) or (B) of this section and the child who is the subject of the report dies for any reason at any time after the report is made, but before the child attains eighteen years of age, the public children services agency or municipal or county peace officer to which the report was made or referred, on the request of the child fatality review board or the director of health pursuant to guidelines established under section 3701.70 of the Revised Code, shall submit a summary sheet of information providing a summary of the report to the review board of the



county in which the deceased child resided at the time of death or to the director. On the request of the review board or director, the agency or peace officer may, at its discretion, make the report available to the review board or director. If the county served by the public children services agency is also served by a children's advocacy center and the report of alleged sexual abuse of a child or another type of abuse of a child is specified in the memorandum of understanding that creates the center as being within the center's jurisdiction, the agency or center shall perform the duties and functions specified in this division in accordance with the interagency agreement entered into under section 2151.428 of the Revised Code relative to that advocacy center.

(5) A public children services agency shall advise a person alleged to have inflicted abuse or neglect on a child who is the subject of a report made pursuant to this section, including a report alleging sexual abuse of a child or another type of abuse of a child referred to a children's advocacy center pursuant to an interagency agreement entered into under section 2151.428 of the Revised Code, in writing of the disposition of the investigation. The agency shall not provide to the person any information that identifies the person who made the report, statements of witnesses, or police or other investigative reports.

(J) Any report that is required by this section, other than a report that is made to the state highway patrol as described in section 5120.173 of the Revised Code, shall result in protective services and emergency supportive services being made available by the public children services agency on behalf of the children about whom the report is made, in an effort to prevent further neglect or abuse, to enhance their welfare, and, whenever possible, to preserve the family unit intact. The agency required to provide the services shall be the agency conducting the investigation of the report pursuant to section 2151.422 of the Revised Code.

(K)(1) Each public children services agency shall prepare a memorandum of understanding that is signed by all of the following:

(a) If there is only one juvenile judge in the county, the juvenile judge of the county or the juvenile judge's representative;

(b) If there is more than one juvenile judge in the county, a juvenile judge or the juvenile judges' representative selected by the juvenile judges or, if they are unable to do so for any reason, the juvenile judge who is senior in point of service or the senior juvenile judge's representative;

(c) The county peace officer;

(d) All chief municipal peace officers within the county;

(e) Other law enforcement officers handling child abuse and neglect cases in the county;

(f) The prosecuting attorney of the county;

(g) If the public children services agency is not the county department of job and family services, the county department of job and family services;

(h) The county humane society;

(i) If the public children services agency participated in the execution of a memorandum of understanding under section 2151.426 of the Revised Code establishing a children's advocacy center, each participating member of the children's advocacy center established by the memorandum.

(2) A memorandum of understanding shall set forth the normal operating procedure to be employed by all concerned officials in the execution of their respective responsibilities under this section and division (C) of section 2919.21, division (B)(1) of section 2919.22, division (B) of

section 2919.23, and section 2919.24 of the Revised Code and shall have as two of its primary goals the elimination of all unnecessary interviews of children who are the subject of reports made pursuant to division (A) or (B) of this section and, when feasible, providing for only one interview of a child who is the subject of any report made pursuant to division (A) or (B) of this section. A failure to follow the procedure set forth in the memorandum by the concerned officials is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from any reported case of abuse or neglect or the suppression of any evidence obtained as a result of any reported child abuse or child neglect and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person.

(3) A memorandum of understanding shall include all of the following:

(a) The roles and responsibilities for handling emergency and nonemergency cases of abuse and neglect;

(b) Standards and procedures to be used in handling and coordinating investigations of reported cases of child abuse and reported cases of child neglect, methods to be used in interviewing the child who is the subject of the report and who allegedly was abused or neglected, and standards and procedures addressing the categories of persons who may interview the child who is the subject of the report and who allegedly was abused or neglected.

(4) If a public children services agency participated in the execution of a memorandum of understanding under section 2151.426 of the Revised Code establishing a children's advocacy center, the agency shall incorporate the contents of that memorandum in the memorandum prepared pursuant to this section.

(5) The clerk of the court of common pleas in the county may sign the memorandum of understanding prepared under division (K)(1) of this section. If the clerk signs the memorandum of understanding, the clerk shall execute all relevant responsibilities as required of officials specified in the memorandum.

(L)(1) Except as provided in division (L)(4) or (5) of this section, a person who is required to make a report pursuant to division (A) of this section may make a reasonable number of requests of the public children services agency that receives or is referred the report, or of the children's advocacy center that is referred the report if the report is referred to a children's advocacy center pursuant to an interagency agreement entered into under section 2151.428 of the Revised Code, to be provided with the following information:

(a) Whether the agency or center has initiated an investigation of the report;

(b) Whether the agency or center is continuing to investigate the report;

(c) Whether the agency or center is otherwise involved with the child who is the subject of the report;

(d) The general status of the health and safety of the child who is the subject of the report;

(e) Whether the report has resulted in the filing of a complaint in juvenile court or of criminal charges in another court.

(2) A person may request the information specified in division (L)(1) of this section only if, at the time the report is made, the person's name, address, and telephone number are provided to the person who receives the report.

When a municipal or county peace officer or employee of a public children services agency

receives a report pursuant to division (A) or (B) of this section the recipient of the report shall inform the person of the right to request the information described in division (L)(1) of this section. The recipient of the report shall include in the initial child abuse or child neglect report that the person making the report was so informed and, if provided at the time of the making of the report, shall include the person's name, address, and telephone number in the report.

Each request is subject to verification of the identity of the person making the report. If that person's identity is verified, the agency shall provide the person with the information described in division (L)(1) of this section a reasonable number of times, except that the agency shall not disclose any confidential information regarding the child who is the subject of the report other than the information described in those divisions.

(3) A request made pursuant to division (L)(1) of this section is not a substitute for any report required to be made pursuant to division (A) of this section.

(4) If an agency other than the agency that received or was referred the report is conducting the investigation of the report pursuant to section 2151.422 of the Revised Code, the agency conducting the investigation shall comply with the requirements of division (L) of this section.

(5) A health care professional who made a report under division (A) of this section, or on whose behalf such a report was made as provided in division (A)(1)(c) of this section, may authorize a person to obtain the information described in division (L)(1) of this section if the person requesting the information is associated with or acting on behalf of the health care professional who provided health care services to the child about whom the report was made.

(M) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The department of job and family services may enter into a plan of cooperation with any other governmental entity to aid in ensuring that children are protected from abuse and neglect. The department shall make recommendations to the attorney general that the department determines are necessary to protect children from child abuse and child neglect.

(N) Whoever violates division (A) of this section is liable for compensatory and exemplary damages to the child who would have been the subject of the report that was not made. A person who brings a civil action or proceeding pursuant to this division against a person who is alleged to have violated division (A)(1) of this section may use in the action or proceeding reports of other incidents of known or suspected abuse or neglect, provided that any information in a report that would identify the child who is the subject of the report or the maker of the report, if the maker is not the defendant or an agent or employee of the defendant, has been redacted.

(O)(1) As used in this division:

(a) "Out-of-home care" includes a nonchartered nonpublic school if the alleged child abuse or child neglect, or alleged threat of child abuse or child neglect, described in a report received by a public children services agency allegedly occurred in or involved the nonchartered nonpublic school and the alleged perpetrator named in the report holds a certificate, permit, or license issued by the state board of education under section 3301.071 or Chapter 3319. of the Revised Code.

(b) "Administrator, director, or other chief administrative officer" means the superintendent of the school district if the out-of-home care entity subject to a report made pursuant to this section is a school operated by the district.

(2) No later than the end of the day following the day on which a public children services agency receives a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved an out-of-home care entity, the agency shall provide written notice of the allegations contained in and the person named as the alleged perpetrator in the report to the administrator, director, or other chief administrative officer of the out-of-home care entity that is the subject of the report unless the administrator, director, or other chief administrative officer is named as an alleged perpetrator in the report. If the administrator, director, or other chief administrative officer of an out-of-home care entity is named as an alleged perpetrator in a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved the out-of-home care entity, the agency shall provide the written notice to the owner or governing board of the out-of-home care entity that is the subject of the report. The agency shall not provide witness statements or police or other investigative reports.

(3) No later than three days after the day on which a public children services agency that conducted the investigation as determined pursuant to section 2151.422 of the Revised Code makes a disposition of an investigation involving a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved an out-of-home care entity, the agency shall send written notice of the disposition of the investigation to the administrator, director, or other chief administrative officer and the owner or governing board of the out-of-home care entity. The agency shall not provide witness statements or police or other investigative reports.

(P) As used in this section:

(1) "Children's advocacy center" and "sexual abuse of a child" have the same meanings as in section 2151.425 of the Revised Code.

(2) "Health care professional" means an individual who provides health-related services including a physician, hospital intern or resident, dentist, podiatrist, registered nurse, licensed practical nurse, visiting nurse, licensed psychologist, speech pathologist, audiologist, person engaged in social work or the practice of professional counseling, and employee of a home health agency. "Health care professional" does not include a practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code, licensed school psychologist, independent marriage and family therapist or marriage and family therapist, or coroner.

(3) "Investigation" means the public children services agency's response to an accepted report of child abuse or neglect through either an alternative response or a traditional response.

**Sec. 2301.03.** (A) In Franklin county, the judges of the court of common pleas whose terms begin on January 1, 1953, January 2, 1953, January 5, 1969, January 5, 1977, January 2, 1997, January 9, 2019, and January 2, 2021, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Franklin county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. They shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all parentage proceedings under Chapter 3111. of the Revised Code over which the juvenile court has jurisdiction, and all divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to them. In

addition to the judge's regular duties, the judge who is senior in point of service shall serve on the children services board and the county advisory board and shall be the administrator of the domestic relations division and its subdivisions and departments.

(B) In Hamilton county:

(1) The judge of the court of common pleas, whose term begins on January 1, 1957, and successors, and the judge of the court of common pleas, whose term begins on February 14, 1967, and successors, shall be the juvenile judges as provided in Chapters 2151. and 2152. of the Revised Code, with the powers and jurisdiction conferred by those chapters.

(2) The judges of the court of common pleas whose terms begin on January 5, 1957, January 16, 1981, and July 1, 1991, and successors, shall be elected and designated as judges of the court of common pleas, division of domestic relations, and shall have assigned to them all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court. On or after the first day of July and before the first day of August of 1991 and each year thereafter, a majority of the judges of the division of domestic relations shall elect one of the judges of the division as administrative judge of that division. If a majority of the judges of the division of domestic relations are unable for any reason to elect an administrative judge for the division before the first day of August, a majority of the judges of the Hamilton county court of common pleas, as soon as possible after that date, shall elect one of the judges of the division of domestic relations as administrative judge of that division. The term of the administrative judge shall begin on the earlier of the first day of August of the year in which the administrative judge is elected or the date on which the administrative judge is elected by a majority of the judges of the Hamilton county court of common pleas and shall terminate on the date on which the administrative judge's successor is elected in the following year.

In addition to the judge's regular duties, the administrative judge of the division of domestic relations shall be the administrator of the domestic relations division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the division engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, including any referees considered necessary by the judges in the discharge of their various duties.

The administrative judge of the division of domestic relations also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division, and shall fix the duties of its personnel. The duties of the personnel, in addition to those provided for in other sections of the Revised Code, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and counseling and conciliation services that may be made available to persons requesting them, whether or not the persons are parties to an action pending in the division.

The board of county commissioners shall appropriate the sum of money each year as will meet all the administrative expenses of the division of domestic relations, including reasonable expenses of the domestic relations judges and the division counselors and other employees designated to conduct the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, conciliation and counseling, and all matters relating to those cases and counseling, and the expenses involved in the attendance of division personnel at domestic

relations and welfare conferences designated by the division, and the further sum each year as will provide for the adequate operation of the division of domestic relations.

The compensation and expenses of all employees and the salary and expenses of the judges shall be paid by the county treasurer from the money appropriated for the operation of the division, upon the warrant of the county auditor, certified to by the administrative judge of the division of domestic relations.

The summonses, warrants, citations, subpoenas, and other writs of the division may issue to a bailiff, constable, or staff investigator of the division or to the sheriff of any county or any marshal, constable, or police officer, and the provisions of law relating to the subpoenaing of witnesses in other cases shall apply insofar as they are applicable. When a summons, warrant, citation, subpoena, or other writ is issued to an officer, other than a bailiff, constable, or staff investigator of the division, the expense of serving it shall be assessed as a part of the costs in the case involved.

(3) The judge of the court of common pleas of Hamilton county whose term begins on January 3, 1997, and the successors to that judge shall each be elected and designated as the drug court judge of the court of common pleas of Hamilton county. The drug court judge may accept or reject any case referred to the drug court judge under division (B)(3) of this section. After the drug court judge accepts a referred case, the drug court judge has full authority over the case, including the authority to conduct arraignment, accept pleas, enter findings and dispositions, conduct trials, order treatment, and if treatment is not successfully completed pronounce and enter sentence.

A judge of the general division of the court of common pleas of Hamilton county and a judge of the Hamilton county municipal court may refer to the drug court judge any case, and any companion cases, the judge determines meet the criteria described under divisions (B)(3)(a) and (b) of this section. If the drug court judge accepts referral of a referred case, the case, and any companion cases, shall be transferred to the drug court judge. A judge may refer a case meeting the criteria described in divisions (B)(3)(a) and (b) of this section that involves a violation of a condition of a community control sanction to the drug court judge, and, if the drug court judge accepts the referral, the referring judge and the drug court judge have concurrent jurisdiction over the case.

A judge of the general division of the court of common pleas of Hamilton county and a judge of the Hamilton county municipal court may refer a case to the drug court judge under division (B) (3) of this section if the judge determines that both of the following apply:

(a) One of the following applies:

(i) The case involves a drug abuse offense, as defined in section 2925.01 of the Revised Code, that is a felony of the third or fourth degree if the offense is committed prior to July 1, 1996, a felony of the third, fourth, or fifth degree if the offense is committed on or after July 1, 1996, or a misdemeanor.

(ii) The case involves a theft offense, as defined in section 2913.01 of the Revised Code, that is a felony of the third or fourth degree if the offense is committed prior to July 1, 1996, a felony of the third, fourth, or fifth degree if the offense is committed on or after July 1, 1996, or a misdemeanor, and the defendant is drug or alcohol dependent or in danger of becoming drug or alcohol dependent and would benefit from treatment.

(b) All of the following apply:

(i) The case involves an offense for which a community control sanction may be imposed or

is a case in which a mandatory prison term or a mandatory jail term is not required to be imposed.

(ii) The defendant has no history of violent behavior.

(iii) The defendant has no history of mental illness.

(iv) The defendant's current or past behavior, or both, is drug or alcohol driven.

(v) The defendant demonstrates a sincere willingness to participate in a fifteen-month treatment process.

(vi) The defendant has no acute health condition.

(vii) If the defendant is incarcerated, the county prosecutor approves of the referral.

(4) If the administrative judge of the court of common pleas of Hamilton county determines that the volume of cases pending before the drug court judge does not constitute a sufficient caseload for the drug court judge, the administrative judge, in accordance with the Rules of Superintendence for Courts of Common Pleas, shall assign individual cases to the drug court judge from the general docket of the court. If the assignments so occur, the administrative judge shall cease the assignments when the administrative judge determines that the volume of cases pending before the drug court judge constitutes a sufficient caseload for the drug court judge.

(5) As used in division (B) of this section, "community control sanction," "mandatory prison term," and "mandatory jail term" have the same meanings as in section 2929.01 of the Revised Code.

(C)(1) In Lorain county:

(a) The judges of the court of common pleas whose terms begin on January 3, 1959, January 4, 1989, and January 2, 1999, and successors, and the judge of the court of common pleas whose term begins on February 9, 2009, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Lorain county and shall be elected and designated as the judges of the court of common pleas, division of domestic relations. The judges of the court of common pleas whose terms begin on January 3, 1959, January 4, 1989, and January 2, 1999, and successors, shall have all of the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all parentage proceedings over which the juvenile court has jurisdiction, and all divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to them, except cases that for some special reason are assigned to some other judge of the court of common pleas. From February 9, 2009, through September 28, 2009, the judge of the court of common pleas whose term begins on February 9, 2009, shall have all the powers relating to juvenile courts, and cases under Chapters 2151. and 2152. of the Revised Code, parentage proceedings over which the juvenile court has jurisdiction, and divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to that judge, except cases that for some special reason are assigned to some other judge of the court of common pleas.

(b) From January 1, 2006, through September 28, 2009, the judges of the court of common pleas, division of domestic relations, in addition to the powers and jurisdiction set forth in division (C)(1)(a) of this section, shall have jurisdiction over matters that are within the jurisdiction of the probate court under Chapter 2101. and other provisions of the Revised Code.

(c) The judge of the court of common pleas, division of domestic relations, whose term begins on February 9, 2009, is the successor to the probate judge who was elected in 2002 for a term that began on February 9, 2003. After September 28, 2009, the judge of the court of common pleas,

division of domestic relations, whose term begins on February 9, 2009, shall be the probate judge.

(2)(a) From February 9, 2009, through September 28, 2009, with respect to Lorain county, all references in law to the probate court shall be construed as references to the court of common pleas, division of domestic relations, and all references to the probate judge shall be construed as references to the judges of the court of common pleas, division of domestic relations.

(b) From February 9, 2009, through September 28, 2009, with respect to Lorain county, all references in law to the clerk of the probate court shall be construed as references to the judge who is serving pursuant to Rule 4 of the Rules of Superintendence for the Courts of Ohio as the administrative judge of the court of common pleas, division of domestic relations.

(D) In Lucas county:

(1) The judges of the court of common pleas whose terms begin on January 1, 1955, and January 3, 1965, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Lucas county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. All divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to them.

The judge of the division of domestic relations, senior in point of service, shall be considered as the presiding judge of the court of common pleas, division of domestic relations, and shall be charged exclusively with the assignment and division of the work of the division and the employment and supervision of all other personnel of the domestic relations division.

(2) The judges of the court of common pleas whose terms begin on January 5, 1977, and January 2, 1991, and successors shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Lucas county, shall be elected and designated as judges of the court of common pleas, juvenile division, and shall be the juvenile judges as provided in Chapters 2151. and 2152. of the Revised Code with the powers and jurisdictions conferred by those chapters. In addition to the judge's regular duties, the judge of the court of common pleas, juvenile division, senior in point of service, shall be the administrator of the juvenile division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the division engaged in handling, servicing, or investigating juvenile cases, including any referees considered necessary by the judges of the division in the discharge of their various duties.

The judge of the court of common pleas, juvenile division, senior in point of service, also shall designate the title, compensation, expense allowance, hours, leaves of absence, and vacation of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel, in addition to other statutory duties include the handling, servicing, and investigation of juvenile cases and counseling and conciliation services that may be made available to persons requesting them, whether or not the persons are parties to an action pending in the division.

(3) If one of the judges of the court of common pleas, division of domestic relations, or one of the judges of the juvenile division is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in that judge's division necessitates it, the duties shall be performed by the judges of the other of those divisions.

(E) In Mahoning county:



(1) The judge of the court of common pleas whose term began on January 1, 1955, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Mahoning county, shall be elected and designated as judge of the court of common pleas, division of domestic relations, and shall be assigned all the divorce, dissolution of marriage, legal separation, and annulment cases coming before the court. In addition to the judge's regular duties, the judge of the court of common pleas, division of domestic relations, shall be the administrator of the domestic relations division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the division engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, including any referees considered necessary in the discharge of the various duties of the judge's office.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and counseling and conciliation services that may be made available to persons requesting them, whether or not the persons are parties to an action pending in the division.

(2) The judge of the court of common pleas whose term began on January 2, 1969, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Mahoning county, shall be elected and designated as judge of the court of common pleas, juvenile division, and shall be the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code, with the powers and jurisdictions conferred by those chapters. In addition to the judge's regular duties, the judge of the court of common pleas, juvenile division, shall be the administrator of the juvenile division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the division engaged in handling, servicing, or investigating juvenile cases, including any referees considered necessary by the judge in the discharge of the judge's various duties.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of juvenile cases and counseling and conciliation services that may be made available to persons requesting them, whether or not the persons are parties to an action pending in the division.

(3) If a judge of the court of common pleas, division of domestic relations or juvenile division, is sick, absent, or unable to perform that judge's judicial duties, or the volume of cases pending in that judge's division necessitates it, that judge's duties shall be performed by another judge of the court of common pleas.

(F) In Montgomery county:

(1) The judges of the court of common pleas whose terms begin on January 2, 1953, and January 4, 1977, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of

Montgomery county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. These judges shall have assigned to them all divorce, dissolution of marriage, legal separation, and annulment cases.

The judge of the division of domestic relations, senior in point of service, shall be charged exclusively with the assignment and division of the work of the division and shall have charge of the employment and supervision of the personnel of the division engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, including any necessary referees, except those employees who may be appointed by the judge, junior in point of service, under this section and sections 2301.12 and 2301.18 of the Revised Code. The judge of the division of domestic relations, senior in point of service, also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties.

(2) The judges of the court of common pleas whose terms begin on January 1, 1953, and January 1, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Montgomery county, shall be elected and designated as judges of the court of common pleas, juvenile division, and shall be, and have the powers and jurisdiction of, the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code.

In addition to the judge's regular duties, the judge of the court of common pleas, juvenile division, senior in point of service, shall be the administrator of the juvenile division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division, including any necessary referees, who are engaged in handling, servicing, or investigating juvenile cases. The judge, senior in point of service, also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of juvenile cases and of any counseling and conciliation services that are available upon request to persons, whether or not they are parties to an action pending in the division.

If one of the judges of the court of common pleas, division of domestic relations, or one of the judges of the court of common pleas, juvenile division, is sick, absent, or unable to perform that judge's duties or the volume of cases pending in that judge's division necessitates it, the duties of that judge may be performed by the judge or judges of the other of those divisions.

(G) In Richland county:

(1) The judge of the court of common pleas whose term begins on January 1, 1957, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Richland county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. That judge shall be assigned and hear all divorce, dissolution of marriage, legal separation, and annulment cases, all domestic violence cases arising under section 3113.31 of the Revised Code, and all post-decree proceedings arising from any case pertaining to any of those matters. The division of domestic relations has concurrent jurisdiction with the juvenile division of the court of common pleas of Richland county to determine the care, custody, or control of any child not a ward of another court

of this state, and to hear and determine a request for an order for the support of any child if the request is not ancillary to an action for divorce, dissolution of marriage, annulment, or legal separation, a criminal or civil action involving an allegation of domestic violence, or an action for support brought under Chapter 3115. of the Revised Code. Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, the judge of the division of domestic relations shall be assigned and hear all cases pertaining to paternity or parentage, the care, custody, or control of children, parenting time or visitation, child support, or the allocation of parental rights and responsibilities for the care of children, all proceedings arising under Chapter 3111. of the Revised Code, all proceedings arising under the uniform interstate family support act contained in Chapter 3115. of the Revised Code, and all post-decree proceedings arising from any case pertaining to any of those matters.

In addition to the judge's regular duties, the judge of the court of common pleas, division of domestic relations, shall be the administrator of the domestic relations division and its subdivisions and departments. The judge shall have charge of the employment, assignment, and supervision of the personnel of the domestic relations division, including any magistrates the judge considers necessary for the discharge of the judge's duties. The judge shall also designate the title, compensation, expense allowances, hours, leaves of absence, vacation, and other employment-related matters of the personnel of the division and shall fix their duties.

(2) The judge of the court of common pleas whose term begins on January 3, 2005, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Richland county, shall be elected and designated as judge of the court of common pleas, juvenile division, and shall be, and have the powers and jurisdiction of, the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code. Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, the judge of the juvenile division shall not have jurisdiction or the power to hear, and shall not be assigned, any case pertaining to paternity or parentage, the care, custody, or control of children, parenting time or visitation, child support, or the allocation of parental rights and responsibilities for the care of children or any post-decree proceeding arising from any case pertaining to any of those matters. The judge of the juvenile division shall not have jurisdiction or the power to hear, and shall not be assigned, any proceeding under the uniform interstate family support act contained in Chapter 3115. of the Revised Code.

In addition to the judge's regular duties, the judge of the juvenile division shall be the administrator of the juvenile division and its subdivisions and departments. The judge shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division who are engaged in handling, servicing, or investigating juvenile cases, including any magistrates whom the judge considers necessary for the discharge of the judge's various duties.

The judge of the juvenile division also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of juvenile cases and providing any counseling, conciliation, and mediation services that the court makes available to persons, whether or not the persons are parties to an action pending in the court, who request the services.

(H)(1) In Stark county, the judges of the court of common pleas whose terms begin on January 1, 1953, January 2, 1959, and January 1, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Stark county and shall be elected and designated as judges of the court of common pleas, family court division. They shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all parentage proceedings over which the juvenile court has jurisdiction, and all divorce, dissolution of marriage, legal separation, and annulment cases, except cases that are assigned to some other judge of the court of common pleas for some special reason, shall be assigned to the judges.

(2) The judge of the family court division, second most senior in point of service, shall have charge of the employment and supervision of the personnel of the division engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, and necessary referees required for the judge's respective court.

(3) The judge of the family court division, senior in point of service, shall be charged exclusively with the administration of sections 2151.13, 2151.16, 2151.17, and 2152.71 of the Revised Code and with the assignment and division of the work of the division and the employment and supervision of all other personnel of the division, including, but not limited to, that judge's necessary referees, but excepting those employees who may be appointed by the judge second most senior in point of service. The senior judge further shall serve in every other position in which the statutes permit or require a juvenile judge to serve.

(4) On and after September 29, 2015, all references in law to "the division of domestic relations," "the domestic relations division," "the domestic relations court," "the judge of the division of domestic relations," or "the judge of the domestic relations division" shall be construed, with respect to Stark county, as being references to "the family court division" or "the judge of the family court division."

(I) In Summit county:

(1) The judges of the court of common pleas whose terms begin on January 4, 1967, and January 6, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Summit county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. The judges of the division of domestic relations shall have assigned to them and hear all divorce, dissolution of marriage, legal separation, and annulment cases that come before the court. Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, the judges of the division of domestic relations shall have assigned to them and hear all cases pertaining to paternity, custody, visitation, child support, or the allocation of parental rights and responsibilities for the care of children and all post-decree proceedings arising from any case pertaining to any of those matters. The judges of the division of domestic relations shall have assigned to them and hear all proceedings under the uniform interstate family support act contained in Chapter 3115. of the Revised Code.

The judge of the division of domestic relations, senior in point of service, shall be the administrator of the domestic relations division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the division, including

any necessary referees, who are engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases. That judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and of any counseling and conciliation services that are available upon request to all persons, whether or not they are parties to an action pending in the division.

(2) The judge of the court of common pleas whose term begins on January 1, 1955, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Summit county, shall be elected and designated as judge of the court of common pleas, juvenile division, and shall be, and have the powers and jurisdiction of, the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code. Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, the judge of the juvenile division shall not have jurisdiction or the power to hear, and shall not be assigned, any case pertaining to paternity, custody, visitation, child support, or the allocation of parental rights and responsibilities for the care of children or any post-decree proceeding arising from any case pertaining to any of those matters. The judge of the juvenile division shall not have jurisdiction or the power to hear, and shall not be assigned, any proceeding under the uniform interstate family support act contained in Chapter 3115. of the Revised Code.

The juvenile judge shall be the administrator of the juvenile division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division, including any necessary referees, who are engaged in handling, servicing, or investigating juvenile cases. The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of juvenile cases and of any counseling and conciliation services that are available upon request to persons, whether or not they are parties to an action pending in the division.

(J) In Trumbull county, the judges of the court of common pleas whose terms begin on January 1, 1953, and January 2, 1977, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Trumbull county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. They shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all parentage proceedings over which the juvenile court has jurisdiction, and all divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to them, except cases that for some special reason are assigned to some other judge of the court of common pleas.

(K) In Butler county:

(1) The judges of the court of common pleas whose terms begin on January 1, 1957, and January 4, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Butler county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. The judges of the division of domestic relations shall have assigned to them all

divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judges of the division of domestic relations also have concurrent jurisdiction with judges of the juvenile division of the court of common pleas of Butler county with respect to and may hear cases to determine the custody, support, or custody and support of a child who is born of issue of a marriage and who is not the ward of another court of this state, cases commenced by a party of the marriage to obtain an order requiring support of any child when the request for that order is not ancillary to an action for divorce, dissolution of marriage, annulment, or legal separation, a criminal or civil action involving an allegation of domestic violence, an action for support under Chapter 3115. of the Revised Code, or an action that is within the exclusive original jurisdiction of the juvenile division of the court of common pleas of Butler county and that involves an allegation that the child is an abused, neglected, or dependent child, and post-decree proceedings and matters arising from those types of cases. The judge senior in point of service shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the domestic relations division.

The judge senior in point of service also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(2) The judges of the court of common pleas whose terms begin on January 3, 1987, and January 2, 2003, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Butler county, shall be elected and designated as judges of the court of common pleas, juvenile division, and shall be the juvenile judges as provided in Chapters 2151. and 2152. of the Revised Code, with the powers and jurisdictions conferred by those chapters. Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, the judges of the juvenile division shall not have jurisdiction or the power to hear and shall not be assigned, but shall have the limited ability and authority to certify, any case commenced by a party of a marriage to determine the custody, support, or custody and support of a child who is born of issue of the marriage and who is not the ward of another court of this state when the request for the order in the case is not ancillary to an action for divorce, dissolution of marriage, annulment, or legal separation. The judge of the court of common pleas, juvenile division, who is senior in point of service, shall be the administrator of the juvenile division and its subdivisions and departments. The judge, senior in point of service, shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division who are engaged in handling, servicing, or investigating juvenile cases, including any referees whom the judge considers necessary for the discharge of the judge's various duties.

The judge, senior in point of service, also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, include the handling,

servicing, and investigation of juvenile cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(3) If a judge of the court of common pleas, division of domestic relations or juvenile division, is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the judge's division necessitates it, the duties of that judge shall be performed by the other judges of the domestic relations and juvenile divisions.

(L)(1) In Cuyahoga county, the judges of the court of common pleas whose terms begin on January 8, 1961, January 9, 1961, January 18, 1975, January 19, 1975, and January 13, 1987, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Cuyahoga county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. They shall have all the powers relating to all divorce, dissolution of marriage, legal separation, and annulment cases, except in cases that are assigned to some other judge of the court of common pleas for some special reason.

(2) The administrative judge is administrator of the domestic relations division and its subdivisions and departments and has the following powers concerning division personnel:

(a) Full charge of the employment, assignment, and supervision;

(b) Sole determination of compensation, duties, expenses, allowances, hours, leaves, and vacations.

(3) "Division personnel" include persons employed or referees engaged in hearing, servicing, investigating, counseling, or conciliating divorce, dissolution of marriage, legal separation and annulment matters.

(M) In Lake county:

(1) The judge of the court of common pleas whose term begins on January 2, 1961, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Lake county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all the divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the domestic relations division.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(2) The judge of the court of common pleas whose term begins on January 4, 1979, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Lake county, shall be elected

and designated as judge of the court of common pleas, juvenile division, and shall be the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code, with the powers and jurisdictions conferred by those chapters. The judge of the court of common pleas, juvenile division, shall be the administrator of the juvenile division and its subdivisions and departments. The judge shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division who are engaged in handling, servicing, or investigating juvenile cases, including any referees whom the judge considers necessary for the discharge of the judge's various duties.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of juvenile cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(3) If a judge of the court of common pleas, division of domestic relations or juvenile division, is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the judge's division necessitates it, the duties of that judge shall be performed by the other judges of the domestic relations and juvenile divisions.

(N) In Erie county:

(1) The judge of the court of common pleas whose term begins on January 2, 1971, and the successors to that judge whose terms begin before January 2, 2007, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judge of the court of common pleas of Erie county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall have all the powers relating to juvenile courts, and shall be assigned all cases under Chapters 2151. and 2152. of the Revised Code, parentage proceedings over which the juvenile court has jurisdiction, and divorce, dissolution of marriage, legal separation, and annulment cases, except cases that for some special reason are assigned to some other judge.

On or after January 2, 2007, the judge of the court of common pleas who is elected in 2006 shall be the successor to the judge of the domestic relations division whose term expires on January 1, 2007, shall be designated as judge of the court of common pleas, juvenile division, and shall be the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code with the powers and jurisdictions conferred by those chapters.

(2) The judge of the court of common pleas, general division, whose term begins on January 1, 2005, and successors, the judge of the court of common pleas, general division whose term begins on January 2, 2005, and successors, and the judge of the court of common pleas, general division, whose term begins February 9, 2009, and successors, shall have assigned to them, in addition to all matters that are within the jurisdiction of the general division of the court of common pleas, all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, and all matters that are within the jurisdiction of the probate court under Chapter 2101., and other provisions, of the Revised Code.

(O) In Greene county:

(1) The judge of the court of common pleas whose term begins on January 1, 1961, and



successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Greene county and shall be elected and designated as the judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, annulment, uniform reciprocal support enforcement, and domestic violence cases and all other cases related to domestic relations, except cases that for some special reason are assigned to some other judge of the court of common pleas.

The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the division. The judge also shall designate the title, compensation, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel of the division, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and the provision of counseling and conciliation services that the division considers necessary and makes available to persons who request the services, whether or not the persons are parties in an action pending in the division. The compensation for the personnel shall be paid from the overall court budget and shall be included in the appropriations for the existing judges of the general division of the court of common pleas.

(2) The judge of the court of common pleas whose term begins on January 1, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Greene county, shall be elected and designated as judge of the court of common pleas, juvenile division, and, on or after January 1, 1995, shall be the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code with the powers and jurisdiction conferred by those chapters. The judge of the court of common pleas, juvenile division, shall be the administrator of the juvenile division and its subdivisions and departments. The judge shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division who are engaged in handling, servicing, or investigating juvenile cases, including any referees whom the judge considers necessary for the discharge of the judge's various duties.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of juvenile cases and providing any counseling and conciliation services that the court makes available to persons, whether or not the persons are parties to an action pending in the court, who request the services.

(3) If one of the judges of the court of common pleas, general division, is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the general division necessitates it, the duties of that judge of the general division shall be performed by the judge of the division of domestic relations and the judge of the juvenile division.

(P) In Portage county, the judge of the court of common pleas, whose term begins January 2, 1987, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Portage county and shall be elected and designated as judge of the court of common pleas, division of

domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the domestic relations division.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(Q) In Clermont county, the judge of the court of common pleas, whose term begins January 2, 1987, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Clermont county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the domestic relations division.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(R) In Warren county, the judge of the court of common pleas, whose term begins January 1, 1987, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Warren county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the domestic relations division.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(S) In Licking county, the judges of the court of common pleas, whose terms begin on

January 1, 1991, and January 1, 2005, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Licking county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. The judges shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The administrative judge of the division of domestic relations shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The administrative judge of the division of domestic relations shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel of the division, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(T) In Allen county, the judge of the court of common pleas, whose term begins January 1, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Allen county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The judge shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel of the division, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and providing any counseling and conciliation services that the division makes

available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(U) In Medina county, the judge of the court of common pleas whose term begins January 1, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Medina county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The judge shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and providing counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(V) In Fairfield county, the judge of the court of common pleas whose term begins January 2, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Fairfield county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge also has concurrent jurisdiction with the probate-juvenile division of the court of common pleas of Fairfield county with respect to and may hear cases to determine the custody of a child, as defined in section 2151.011 of the Revised Code, who is not the ward of another court of this state, cases that are commenced by a parent, guardian, or custodian of a child, as defined in section 2151.011 of the Revised Code, to obtain an order requiring a parent of the child to pay child support for that child when the request for that order is not ancillary to an action for divorce, dissolution of marriage, annulment, or legal separation, a criminal or civil action involving an allegation of domestic violence, an action for support under Chapter 3115. of the Revised Code, or an

action that is within the exclusive original jurisdiction of the probate-juvenile division of the court of common pleas of Fairfield county and that involves an allegation that the child is an abused, neglected, or dependent child, and post-decree proceedings and matters arising from those types of cases.

The judge of the domestic relations division shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The judge shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel of the division, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and providing any counseling and conciliation services that the division makes available to persons, regardless of whether the persons are parties to an action pending in the division, who request the services. When the judge hears a case to determine the custody of a child, as defined in section 2151.011 of the Revised Code, who is not the ward of another court of this state or a case that is commenced by a parent, guardian, or custodian of a child, as defined in section 2151.011 of the Revised Code, to obtain an order requiring a parent of the child to pay child support for that child when the request for that order is not ancillary to an action for divorce, dissolution of marriage, annulment, or legal separation, a criminal or civil action involving an allegation of domestic violence, an action for support under Chapter 3115. of the Revised Code, or an action that is within the exclusive original jurisdiction of the probate-juvenile division of the court of common pleas of Fairfield county and that involves an allegation that the child is an abused, neglected, or dependent child, the duties of the personnel of the domestic relations division also include the handling, servicing, and investigation of those types of cases.

(W)(1) In Clark county, the judge of the court of common pleas whose term begins on January 2, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Clark county and shall be elected and designated as judge of the court of common pleas, domestic relations division. The judge shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code and all parentage proceedings under Chapter 3111. of the Revised Code over which the juvenile court has jurisdiction shall be assigned to the judge of the division of domestic relations. All divorce, dissolution of marriage, legal separation, annulment, uniform reciprocal support enforcement, and other cases related to domestic relations shall be assigned to the domestic relations division, and the presiding judge of the court of common pleas shall assign the cases to the judge of the domestic relations division and the judges of the general division.

(2) In addition to the judge's regular duties, the judge of the division of domestic relations shall serve on the children services board and the county advisory board.

(3) If the judge of the court of common pleas of Clark county, division of domestic relations,

is sick, absent, or unable to perform that judge's judicial duties or if the presiding judge of the court of common pleas of Clark county determines that the volume of cases pending in the division of domestic relations necessitates it, the duties of the judge of the division of domestic relations shall be performed by the judges of the general division or probate division of the court of common pleas of Clark county, as assigned for that purpose by the presiding judge of that court, and the judges so assigned shall act in conjunction with the judge of the division of domestic relations of that court.

(X) In Scioto county, the judge of the court of common pleas whose term begins January 2, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Scioto county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The judge shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and providing counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(Y) In Auglaize county, the judge of the probate and juvenile divisions of the Auglaize county court of common pleas also shall be the administrative judge of the domestic relations division of the court and shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court. The judge shall have all powers as administrator of the domestic relations division and shall have charge of the personnel engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, including any referees considered necessary for the discharge of the judge's various duties.

(Z)(1) In Marion county, the judge of the court of common pleas whose term begins on February 9, 1999, and the successors to that judge, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Marion county and shall be elected and designated as judge of the court of common pleas, domestic relations-juvenile-probate division. Except as otherwise specified in this division, that judge, and the successors to that judge, shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all cases arising under Chapter 3111.

of the Revised Code, all divorce, dissolution of marriage, legal separation, and annulment cases, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings shall be assigned to that judge and the successors to that judge. Except as provided in division (Z)(2) of this section and notwithstanding any other provision of any section of the Revised Code, on and after February 9, 2003, the judge of the court of common pleas of Marion county whose term begins on February 9, 1999, and the successors to that judge, shall have all the powers relating to the probate division of the court of common pleas of Marion county in addition to the powers previously specified in this division, and shall exercise concurrent jurisdiction with the judge of the probate division of that court over all matters that are within the jurisdiction of the probate division of that court under Chapter 2101., and other provisions, of the Revised Code in addition to the jurisdiction of the domestic relations-juvenile-probate division of that court otherwise specified in division (Z)(1) of this section.

(2) The judge of the domestic relations-juvenile-probate division of the court of common pleas of Marion county or the judge of the probate division of the court of common pleas of Marion county, whichever of those judges is senior in total length of service on the court of common pleas of Marion county, regardless of the division or divisions of service, shall serve as the clerk of the probate division of the court of common pleas of Marion county.

(3) On and after February 9, 2003, all references in law to "the probate court," "the probate judge," "the juvenile court," or "the judge of the juvenile court" shall be construed, with respect to Marion county, as being references to both "the probate division" and "the domestic relations-juvenile-probate division" and as being references to both "the judge of the probate division" and "the judge of the domestic relations- juvenile-probate division." On and after February 9, 2003, all references in law to "the clerk of the probate court" shall be construed, with respect to Marion county, as being references to the judge who is serving pursuant to division (Z)(2) of this section as the clerk of the probate division of the court of common pleas of Marion county.

(AA) In Muskingum county, the judge of the court of common pleas whose term begins on January 2, 2003, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Muskingum county and shall be elected and designated as the judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The judge shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel of the division, in addition to other statutory duties, shall

include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(BB) In Henry county, the judge of the court of common pleas whose term begins on January 1, 2005, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judge of the court of common pleas of Henry county and shall be elected and designated as the judge of the court of common pleas, division of domestic relations. The judge shall have all of the powers relating to juvenile courts, and all cases under Chapter 2151. or 2152. of the Revised Code, all parentage proceedings arising under Chapter 3111. of the Revised Code over which the juvenile court has jurisdiction, all divorce, dissolution of marriage, legal separation, and annulment cases, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings shall be assigned to that judge, except in cases that for some special reason are assigned to the other judge of the court of common pleas.

(CC)(1) In Logan county, the judge of the court of common pleas whose term begins January 2, 2005, and the successors to that judge, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Logan county and shall be elected and designated as judge of the court of common pleas, domestic relations-juvenile-probate division. Except as otherwise specified in this division, that judge, and the successors to that judge, shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all cases arising under Chapter 3111. of the Revised Code, all divorce, dissolution of marriage, legal separation, and annulment cases, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings shall be assigned to that judge and the successors to that judge. Notwithstanding any other provision of any section of the Revised Code, on and after January 2, 2005, the judge of the court of common pleas of Logan county whose term begins on January 2, 2005, and the successors to that judge, shall have all the powers relating to the probate division of the court of common pleas of Logan county in addition to the powers previously specified in this division and shall exercise concurrent jurisdiction with the judge of the probate division of that court over all matters that are within the jurisdiction of the probate division of that court under Chapter 2101., and other provisions, of the Revised Code in addition to the jurisdiction of the domestic relations-juvenile-probate division of that court otherwise specified in division (CC)(1) of this section.

(2) The judge of the domestic relations-juvenile-probate division of the court of common pleas of Logan county or the probate judge of the court of common pleas of Logan county who is



elected as the administrative judge of the probate division of the court of common pleas of Logan county pursuant to Rule 4 of the Rules of Superintendence shall be the clerk of the probate division and juvenile division of the court of common pleas of Logan county. The clerk of the court of common pleas who is elected pursuant to section 2303.01 of the Revised Code shall keep all of the journals, records, books, papers, and files pertaining to the domestic relations cases.

(3) On and after January 2, 2005, all references in law to "the probate court," "the probate judge," "the juvenile court," or "the judge of the juvenile court" shall be construed, with respect to Logan county, as being references to both "the probate division" and the "domestic relations-juvenile-probate division" and as being references to both "the judge of the probate division" and the "judge of the domestic relations-juvenile-probate division." On and after January 2, 2005, all references in law to "the clerk of the probate court" shall be construed, with respect to Logan county, as being references to the judge who is serving pursuant to division (CC)(2) of this section as the clerk of the probate division of the court of common pleas of Logan county.

(DD)(1) In Champaign county, the judge of the court of common pleas whose term begins February 9, 2003, and the judge of the court of common pleas whose term begins February 10, 2009, and the successors to those judges, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Champaign county and shall be elected and designated as judges of the court of common pleas, domestic relations-juvenile-probate division. Except as otherwise specified in this division, those judges, and the successors to those judges, shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all cases arising under Chapter 3111. of the Revised Code, all divorce, dissolution of marriage, legal separation, and annulment cases, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings shall be assigned to those judges and the successors to those judges. Notwithstanding any other provision of any section of the Revised Code, on and after February 9, 2009, the judges designated by this division as judges of the court of common pleas of Champaign county, domestic relations-juvenile-probate division, and the successors to those judges, shall have all the powers relating to probate courts in addition to the powers previously specified in this division and shall exercise jurisdiction over all matters that are within the jurisdiction of probate courts under Chapter 2101., and other provisions, of the Revised Code in addition to the jurisdiction of the domestic relations-juvenile-probate division otherwise specified in division (DD)(1) of this section.

(2) On and after February 9, 2009, all references in law to "the probate court," "the probate judge," "the juvenile court," or "the judge of the juvenile court" shall be construed with respect to Champaign county as being references to the "domestic relations-juvenile-probate division" and as being references to the "judge of the domestic relations-juvenile-probate division." On and after February 9, 2009, all references in law to "the clerk of the probate court" shall be construed with respect to Champaign county as being references to the judge who is serving pursuant to Rule 4 of the Rules of Superintendence for the Courts of Ohio as the administrative judge of the court of common pleas, domestic relations-juvenile-probate division.

(EE) In Delaware county, the judge of the court of common pleas whose term begins on

January 1, 2017, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Delaware county and shall be elected and designated as the judge of the court of common pleas, division of domestic relations. Divorce, dissolution of marriage, legal separation, and annulment cases, including any post-decree proceedings, and cases involving questions of paternity, custody, visitation, child support, and the allocation of parental rights and responsibilities for the care of children, regardless of whether those matters arise in post-decree proceedings or involve children born between unmarried persons, shall be assigned to that judge, except cases that for some special reason are assigned to another judge of the court of common pleas.

(FF) If a judge of the court of common pleas, division of domestic relations, or juvenile judge, of any of the counties mentioned in this section is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the judge's division necessitates it, the duties of that judge shall be performed by another judge of the court of common pleas of that county, assigned for that purpose by the presiding judge of the court of common pleas of that county to act in place of or in conjunction with that judge, as the case may require.

**Sec. 2305.231.** (A) As used in this section:

(1) "Dentist" means a person who is licensed under Chapter 4715. of the Revised Code to practice dentistry.

(2) "Physician" means a person who holds a certificate issued by the state medical board to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(3) "Registered nurse" means a nurse who is licensed as a registered nurse under Chapter 4723. of the Revised Code.

(4) "Therapeutic recreation" means adoptive recreation services to persons with illnesses or disabling conditions in order to do any of the following:

- (a) Restore, remediate, or rehabilitate;
- (b) Improve functioning and independence;
- (c) Reduce or eliminate the effects of illness or disability.

(B) No physician who volunteers the physician's services as a team physician or team podiatrist to a school's athletics program, no dentist who volunteers the dentist's services as a team dentist to a school's athletics program, and no registered nurse who volunteers the registered nurse's services as a team nurse to a school's athletics program is liable in damages in a civil action for administering emergency medical care, emergency dental care, other emergency professional care, or first aid treatment to a participant in an athletic event involving the school, at the scene of the event or while the participant is being transported to a hospital, physician's or dentist's office, or other medical or dental facility, or for acts performed in administering the care or treatment, unless the acts of the physician, dentist, or registered nurse constitute willful or wanton misconduct.

(C)(1) No physician who volunteers the physician's services as a camp physician at a camp that specializes in therapeutic recreation, and no registered nurse who volunteers the registered nurse's services at such a camp, is liable in damages in a civil action for either of the following:

(a) Administering medical care, or emergency professional care, or first aid treatment to a participant in the camp or while the participant is being transported to a hospital, physician's or dentist's office, or other medical or dental facility;

(b) Acts performed in administering that care or treatment.

(2) Division (C)(1) of this section does not apply if the acts of the physician or registered nurse constitute willful or wanton misconduct.

(D) This section does not apply if the administration of emergency medical care, emergency dental care, other emergency professional care, or first aid treatment is rendered for remuneration, or with the expectation of remuneration, from the recipient of the care or treatment or from someone on the recipient's behalf.

**Sec. 2323.44.**

**Sec. 2919.21.** (A) No person shall abandon, or fail to provide adequate support to:

(1) The person's spouse, as required by law;

(2) The person's child who is under age eighteen, or mentally or physically handicapped child who is under age twenty-one;

(3) The person's aged or infirm parent or adoptive parent, who from lack of ability and means is unable to provide adequately for the parent's own support.

(B) No person shall abandon, or fail to provide support as established by a court order to, another person whom, by court order or decree, the person is legally obligated to support.

(C) No person shall aid, abet, induce, cause, encourage, or contribute to a child or a ward of the juvenile court becoming a dependent child, as defined in section 2151.04 of the Revised Code, or a neglected child, as defined in section 2151.03 of the Revised Code.

(D) It is an affirmative defense to a charge of failure to provide adequate support under division (A) of this section or a charge of failure to provide support established by a court order under division (B) of this section that the accused was unable to provide adequate support or the established support but did provide the support that was within the accused's ability and means.

(E) It is an affirmative defense to a charge under division (A)(3) of this section that the parent abandoned the accused or failed to support the accused as required by law, while the accused was under age eighteen, or was mentally or physically handicapped and under age twenty-one.

(F) It is not a defense to a charge under division (B) of this section that the person whom a court has ordered the accused to support is being adequately supported by someone other than the accused.

(G)(1) Except as otherwise provided in this division, whoever violates division (A) or (B) of this section is guilty of nonsupport of dependents, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of division (A)(2) or (B) of this section or if the offender has failed to provide support under division (A)(2) or (B) of this section for a total accumulated period of twenty-six weeks out of one hundred four consecutive weeks, whether or not the twenty-six weeks were consecutive, then a violation of division (A)(2) or (B) of this section is a felony of the fifth degree. If the offender previously has been convicted of or pleaded guilty to a felony violation of this section, a violation of division (A)(2) or (B) of this section is a felony of the fourth degree.

If the violation of division (A) or (B) of this section is a felony, all of the following apply to the sentencing of the offender:

(a) Except as otherwise provided in division (G)(1)(b) of this section, the court in imposing sentence on the offender shall first consider placing the offender on one or more community control

sanctions under section 2929.16, 2929.17, or 2929.18 of the Revised Code, with an emphasis under the sanctions on intervention for nonsupport, obtaining or maintaining employment, or another related condition.

(b) The preference for placement on community control sanctions described in division (G)(1)(a) of this section does not apply to any offender to whom one or more of the following applies:

(i) The court determines that the imposition of a prison term on the offender is consistent with the purposes and principles of sentencing set forth in section 2929.11 of the Revised Code.

(ii) The offender previously was convicted of or pleaded guilty to a violation of this section that was a felony, and the offender was sentenced to a prison term for that violation.

(iii) The offender previously was convicted of or pleaded guilty to a violation of this section that was a felony, the offender was sentenced to one or more community control sanctions of a type described in division (G)(1)(a) of this section for that violation, and the offender failed to comply with the conditions of any of those community control sanctions.

(2) If the offender is guilty of nonsupport of dependents by reason of failing to provide support to the offender's child as required by a child support order issued on or after April 15, 1985, pursuant to section 2151.23, 2151.231, 2151.232, 2151.33, 3105.21, 3109.05, 3111.13, 3113.04, 3113.31, 3115.401, or former section 3115.31 of the Revised Code, the court, in addition to any other sentence imposed, shall assess all court costs arising out of the charge against the person and require the person to pay any reasonable attorney's fees of any adverse party other than the state, as determined by the court, that arose in relation to the charge.

(3) Whoever violates division (C) of this section is guilty of contributing to the nonsupport of dependents, a misdemeanor of the first degree. Each day of violation of division (C) of this section is a separate offense.

**Sec. 2923.129.** (A)(1) If a sheriff, the superintendent of the bureau of criminal identification and investigation, the employees of the bureau, the Ohio peace officer training commission, or the employees of the commission make a good faith effort in performing the duties imposed upon the sheriff, the superintendent, the bureau's employees, the commission, or the commission's employees by sections 109.731, 311.41, and 2923.124 to 2923.1213 of the Revised Code, in addition to the personal immunity provided by section 9.86 of the Revised Code or division (A)(6) of section 2744.03 of the Revised Code and the governmental immunity of sections 2744.02 and 2744.03 of the Revised Code and in addition to any other immunity possessed by the bureau, the commission, and their employees, the sheriff, the sheriff's office, the county in which the sheriff has jurisdiction, the bureau, the superintendent of the bureau, the bureau's employees, the commission, and the commission's employees are immune from liability in a civil action for injury, death, or loss to person or property that allegedly was caused by or related to any of the following:

(a) The issuance, renewal, suspension, or revocation of a concealed handgun license;

(b) The failure to issue, renew, suspend, or revoke a concealed handgun license;

(c) Any action or misconduct with a handgun committed by a licensee.

(2) Any action of a sheriff relating to the issuance, renewal, suspension, or revocation of a concealed handgun license shall be considered to be a governmental function for purposes of Chapter 2744. of the Revised Code.

(3) An entity that or instructor who provides a competency certification of a type described in

division (B)(3) of section 2923.125 of the Revised Code is immune from civil liability that might otherwise be incurred or imposed for any death or any injury or loss to person or property that is caused by or related to a person to whom the entity or instructor has issued the competency certificate if all of the following apply:

(a) The alleged liability of the entity or instructor relates to the training provided in the course, class, or program covered by the competency certificate.

(b) The entity or instructor makes a good faith effort in determining whether the person has satisfactorily completed the course, class, or program and makes a good faith effort in assessing the person in the competency examination conducted pursuant to division (G)(2) of section 2923.125 of the Revised Code.

(c) The entity or instructor did not issue the competency certificate with malicious purpose, in bad faith, or in a wanton or reckless manner.

(4) An entity that or instructor who, prior to March 27, 2013, provides a renewed competency certification of a type described in division (G)(4) of section 2923.125 of the Revised Code as it existed prior to March 27, 2013, is immune from civil liability that might otherwise be incurred or imposed for any death or any injury or loss to person or property that is caused by or related to a person to whom the entity or instructor has issued the renewed competency certificate if all of the following apply:

(a) The entity or instructor makes a good faith effort in assessing the person in the physical demonstrations or the competency examination conducted pursuant to division (G)(4) of section 2923.125 of the Revised Code as it existed prior to March 27, 2013.

(b) The entity or instructor did not issue the renewed competency certificate with malicious purpose, in bad faith, or in a wanton or reckless manner.

(5) A law enforcement agency that employs a peace officer is immune from liability in a civil action to recover damages for injury, death, or loss to person or property allegedly caused by any act of that peace officer if the act occurred while the peace officer carried a concealed handgun and was off duty and if the act allegedly involved the peace officer's use of the concealed handgun. Sections 9.86 and 9.87, and Chapter 2744., of the Revised Code apply to any civil action involving a peace officer's use of a concealed handgun in the performance of the peace officer's official duties while the peace officer is off duty.

(B) Notwithstanding section 149.43 of the Revised Code, the records that a sheriff keeps relative to the issuance, renewal, suspension, or revocation of a concealed handgun license, including, but not limited to, completed applications for the issuance or renewal of a license, completed affidavits submitted regarding an application for a license on a temporary emergency basis, reports of criminal records checks and incompetency records checks under section 311.41 of the Revised Code, and applicants' social security numbers and fingerprints that are obtained under division (A) of section 311.41 of the Revised Code, are confidential and are not public records. No person shall release or otherwise disseminate records that are confidential under this division unless required to do so pursuant to a court order.

(C) Each sheriff shall report to the Ohio peace officer training commission the number of concealed handgun licenses that the sheriff issued, renewed, suspended, revoked, or denied under section 2923.125 of the Revised Code during the previous quarter of the calendar year, the number of

applications for those licenses for which processing was suspended in accordance with division (D) (3) of section 2923.125 of the Revised Code during the previous quarter of the calendar year, and the number of concealed handgun licenses on a temporary emergency basis that the sheriff issued, suspended, revoked, or denied under section 2923.1213 of the Revised Code during the previous quarter of the calendar year. The sheriff shall not include in the report the name or any other identifying information of an applicant or licensee. The sheriff shall report that information in a manner that permits the commission to maintain the statistics described in division (C) of section 109.731 of the Revised Code and to timely prepare the statistical report described in that division. The information that is received by the commission under this division is a public record kept by the commission for the purposes of section 149.43 of the Revised Code.

(D) Law enforcement agencies may use the information a sheriff makes available through the use of the law enforcement automated data system pursuant to division (H) of section 2923.125 or division (B)(2) or (D) of section 2923.1213 of the Revised Code for law enforcement purposes only. The information is confidential and is not a public record. Except as provided in section 5503.101 of the Revised Code, a person who releases or otherwise disseminates this information obtained through the law enforcement automated data system in a manner not described in this division is guilty of a violation of section 2913.04 of the Revised Code.

(E) Whoever violates division (B) of this section is guilty of illegal release of confidential concealed handgun license records, a felony of the fifth degree. In addition to any penalties imposed under Chapter 2929. of the Revised Code for a violation of division (B) of this section or a violation of section 2913.04 of the Revised Code described in division (D) of this section, if the offender is a sheriff, an employee of a sheriff, or any other public officer or employee, and if the violation was willful and deliberate, the offender shall be subject to a civil fine of one thousand dollars. Any person who is harmed by a violation of division (B) or (C) of this section or a violation of section 2913.04 of the Revised Code described in division (D) of this section has a private cause of action against the offender for any injury, death, or loss to person or property that is a proximate result of the violation and may recover court costs and attorney's fees related to the action.

**Sec. 2925.03.** (A) No person shall knowingly do any of the following:

(1) Sell or offer to sell a controlled substance or a controlled substance analog;

(2) Prepare for shipment, ship, transport, deliver, prepare for distribution, or distribute a controlled substance or a controlled substance analog, when the offender knows or has reasonable cause to believe that the controlled substance or a controlled substance analog is intended for sale or resale by the offender or another person.

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

(1) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Chapters 3719., 4715., 4723., 4729., 4730., 4731., and 4741. of the Revised Code;

(2) If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States food and drug administration;

(3) Any person who sells, offers for sale, prescribes, dispenses, or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through

implants to livestock or other nonhuman species and approved for that purpose under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed, or administered for that purpose in accordance with that act.

(C) Whoever violates division (A) of this section is guilty of one of the following:

(1) If the drug involved in the violation is any compound, mixture, preparation, or substance included in schedule I or schedule II, with the exception of marihuana, cocaine, L.S.D., heroin, hashish, and controlled substance analogs, whoever violates division (A) of this section is guilty of aggravated trafficking in drugs. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(1)(b), (c), (d), (e), or (f) of this section, aggravated trafficking in drugs is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(1)(c), (d), (e), or (f) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds the bulk amount but is less than five times the bulk amount, aggravated trafficking in drugs is a felony of the third degree, and, except as otherwise provided in this division, there is a presumption for a prison term for the offense. If aggravated trafficking in drugs is a felony of the third degree under this division and if the offender two or more times previously has been convicted of or pleaded guilty to a felony drug abuse offense, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds five times the bulk amount but is less than fifty times the bulk amount, aggravated trafficking in drugs is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(e) If the amount of the drug involved equals or exceeds fifty times the bulk amount but is less than one hundred times the bulk amount and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(f) If the amount of the drug involved equals or exceeds one hundred times the bulk amount and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term the maximum prison term prescribed

for a felony of the first degree.

(2) If the drug involved in the violation is any compound, mixture, preparation, or substance included in schedule III, IV, or V, whoever violates division (A) of this section is guilty of trafficking in drugs. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(2)(b), (c), (d), or (e) of this section, trafficking in drugs is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(2)(c), (d), or (e) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in drugs is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds the bulk amount but is less than five times the bulk amount, trafficking in drugs is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in drugs is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds five times the bulk amount but is less than fifty times the bulk amount, trafficking in drugs is a felony of the third degree, and there is a presumption for a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in drugs is a felony of the second degree, and there is a presumption for a prison term for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds fifty times the bulk amount, trafficking in drugs is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved equals or exceeds fifty times the bulk amount and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in drugs is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(3) If the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, whoever violates division (A) of this section is guilty of trafficking in marihuana. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(3)(b), (c), (d), (e), (f), (g), or (h) of this section, trafficking in marihuana is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(3)(c), (d), (e), (f), (g), or (h) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or



exceeds two hundred grams but is less than one thousand grams, trafficking in marihuana is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds one thousand grams but is less than five thousand grams, trafficking in marihuana is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the second degree, and there is a presumption that a prison term shall be imposed for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds five thousand grams but is less than twenty thousand grams, trafficking in marihuana is a felony of the third degree, and there is a presumption that a prison term shall be imposed for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the second degree, and there is a presumption that a prison term shall be imposed for the offense.

(f) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds twenty thousand grams but is less than forty thousand grams, trafficking in marihuana is a felony of the second degree, and the court shall impose a mandatory prison term of five, six, seven, or eight years. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the first degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(g) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds forty thousand grams, trafficking in marihuana is a felony of the second degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the second degree. If the amount of the drug involved equals or exceeds forty thousand grams and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the first degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(h) Except as otherwise provided in this division, if the offense involves a gift of twenty grams or less of marihuana, trafficking in marihuana is a minor misdemeanor upon a first offense and a misdemeanor of the third degree upon a subsequent offense. If the offense involves a gift of twenty grams or less of marihuana and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree.

(4) If the drug involved in the violation is cocaine or a compound, mixture, preparation, or substance containing cocaine, whoever violates division (A) of this section is guilty of trafficking in cocaine. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(4)(b), (c), (d), (e), (f), or (g) of this section,

trafficking in cocaine is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(4)(c), (d), (e), (f), or (g) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in cocaine is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds five grams but is less than ten grams of cocaine, trafficking in cocaine is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in cocaine is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten grams but is less than twenty grams of cocaine, trafficking in cocaine is a felony of the third degree, and, except as otherwise provided in this division, there is a presumption for a prison term for the offense. If trafficking in cocaine is a felony of the third degree under this division and if the offender two or more times previously has been convicted of or pleaded guilty to a felony drug abuse offense, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in cocaine is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds twenty grams but is less than twenty-seven grams of cocaine, trafficking in cocaine is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in cocaine is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(f) If the amount of the drug involved equals or exceeds twenty-seven grams but is less than one hundred grams of cocaine and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in cocaine is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(g) If the amount of the drug involved equals or exceeds one hundred grams of cocaine and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in cocaine is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(5) If the drug involved in the violation is L.S.D. or a compound, mixture, preparation, or substance containing L.S.D., whoever violates division (A) of this section is guilty of trafficking in

L.S.D. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(5)(b), (c), (d), (e), (f), or (g) of this section, trafficking in L.S.D. is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(5)(c), (d), (e), (f), or (g) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten unit doses but is less than fifty unit doses of L.S.D. in a solid form or equals or exceeds one gram but is less than five grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in L.S.D. is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds fifty unit doses but is less than two hundred fifty unit doses of L.S.D. in a solid form or equals or exceeds five grams but is less than twenty-five grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in L.S.D. is a felony of the third degree, and, except as otherwise provided in this division, there is a presumption for a prison term for the offense. If trafficking in L.S.D. is a felony of the third degree under this division and if the offender two or more times previously has been convicted of or pleaded guilty to a felony drug abuse offense, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds two hundred fifty unit doses but is less than one thousand unit doses of L.S.D. in a solid form or equals or exceeds twenty-five grams but is less than one hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in L.S.D. is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(f) If the amount of the drug involved equals or exceeds one thousand unit doses but is less than five thousand unit doses of L.S.D. in a solid form or equals or exceeds one hundred grams but is less than five hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a felony of the first degree, and the court shall impose as a

mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(g) If the amount of the drug involved equals or exceeds five thousand unit doses of L.S.D. in a solid form or equals or exceeds five hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(6) If the drug involved in the violation is heroin or a compound, mixture, preparation, or substance containing heroin, whoever violates division (A) of this section is guilty of trafficking in heroin. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(6)(b), (c), (d), (e), (f), or (g) of this section, trafficking in heroin is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(6)(c), (d), (e), (f), or (g) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten unit doses but is less than fifty unit doses or equals or exceeds one gram but is less than five grams, trafficking in heroin is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds fifty unit doses but is less than one hundred unit doses or equals or exceeds five grams but is less than ten grams, trafficking in heroin is a felony of the third degree, and there is a presumption for a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the second degree, and there is a presumption for a prison term for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds one hundred unit doses but is less than five hundred unit doses or equals or exceeds ten grams but is less than fifty grams, trafficking in heroin is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(f) If the amount of the drug involved equals or exceeds five hundred unit doses but is less than one thousand unit doses or equals or exceeds fifty grams but is less than one hundred grams and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the first degree, and the court shall impose as a

mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(g) If the amount of the drug involved equals or exceeds one thousand unit doses or equals or exceeds one hundred grams and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(7) If the drug involved in the violation is hashish or a compound, mixture, preparation, or substance containing hashish, whoever violates division (A) of this section is guilty of trafficking in hashish. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(7)(b), (c), (d), (e), (f), or (g) of this section, trafficking in hashish is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(7)(c), (d), (e), (f), or (g) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in hashish is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten grams but is less than fifty grams of hashish in a solid form or equals or exceeds two grams but is less than ten grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in hashish is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in hashish is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds fifty grams but is less than two hundred fifty grams of hashish in a solid form or equals or exceeds ten grams but is less than fifty grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in hashish is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in hashish is a felony of the second degree, and there is a presumption that a prison term shall be imposed for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds two hundred fifty grams but is less than one thousand grams of hashish in a solid form or equals or exceeds fifty grams but is less than two hundred grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in hashish is a felony of the third degree, and there is a presumption that a prison term shall be imposed for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in hashish is a felony of the second degree, and there is a presumption that a prison term shall be imposed for the offense.

(f) Except as otherwise provided in this division, if the amount of the drug involved equals or

exceeds one thousand grams but is less than two thousand grams of hashish in a solid form or equals or exceeds two hundred grams but is less than four hundred grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in hashish is a felony of the second degree, and the court shall impose a mandatory prison term of five, six, seven, or eight years. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in hashish is a felony of the first degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(g) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds two thousand grams of hashish in a solid form or equals or exceeds four hundred grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in hashish is a felony of the second degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the second degree. If the amount of the drug involved equals or exceeds two thousand grams of hashish in a solid form or equals or exceeds four hundred grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in hashish is a felony of the first degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(8) If the drug involved in the violation is a controlled substance analog or compound, mixture, preparation, or substance that contains a controlled substance analog, whoever violates division (A) of this section is guilty of trafficking in a controlled substance analog. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(8)(b), (c), (d), (e), (f), or (g) of this section, trafficking in a controlled substance analog is a felony of the fifth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(8)(c), (d), (e), (f), or (g) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in a controlled substance analog is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten grams but is less than twenty grams, trafficking in a controlled substance analog is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in a controlled substance analog is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds twenty grams but is less than thirty grams, trafficking in a controlled substance analog is a felony of the third degree, and there is a presumption for a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in a controlled substance analog is a felony of the second degree, and there is a presumption for a prison term for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds thirty grams but is less than forty grams, trafficking in a controlled substance analog is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in a controlled substance analog is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(f) If the amount of the drug involved equals or exceeds forty grams but is less than fifty grams and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in a controlled substance analog is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(g) If the amount of the drug involved equals or exceeds fifty grams and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in a controlled substance analog is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(D) In addition to any prison term authorized or required by division (C) of this section and sections 2929.13 and 2929.14 of the Revised Code, and in addition to any other sanction imposed for the offense under this section or sections 2929.11 to 2929.18 of the Revised Code, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (A) of this section may suspend the driver's or commercial driver's license or permit of the offender in accordance with division (G) of this section. However, if the offender pleaded guilty to or was convicted of a violation of section 4511.19 of the Revised Code or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit in accordance with division (G) of this section. If applicable, the court also shall do the following:

(1) If the violation of division (A) of this section is a felony of the first, second, or third degree, the court shall impose upon the offender the mandatory fine specified for the offense under division (B)(1) of section 2929.18 of the Revised Code unless, as specified in that division, the court determines that the offender is indigent. Except as otherwise provided in division (H)(1) of this section, a mandatory fine or any other fine imposed for a violation of this section is subject to division (F) of this section. If a person is charged with a violation of this section that is a felony of the first, second, or third degree, posts bail, and forfeits the bail, the clerk of the court shall pay the forfeited bail pursuant to divisions (D)(1) and (F) of this section, as if the forfeited bail was a fine imposed for a violation of this section. If any amount of the forfeited bail remains after that payment and if a fine is imposed under division (H)(1) of this section, the clerk of the court shall pay the remaining amount of the forfeited bail pursuant to divisions (H)(2) and (3) of this section, as if that remaining amount was a fine imposed under division (H)(1) of this section.

(2) If the offender is a professionally licensed person, the court immediately shall comply with section 2925.38 of the Revised Code.

(E) When a person is charged with the sale of or offer to sell a bulk amount or a multiple of a bulk amount of a controlled substance, the jury, or the court trying the accused, shall determine the amount of the controlled substance involved at the time of the offense and, if a guilty verdict is returned, shall return the findings as part of the verdict. In any such case, it is unnecessary to find and return the exact amount of the controlled substance involved, and it is sufficient if the finding and return is to the effect that the amount of the controlled substance involved is the requisite amount, or that the amount of the controlled substance involved is less than the requisite amount.

(F)(1) Notwithstanding any contrary provision of section 3719.21 of the Revised Code and except as provided in division (H) of this section, the clerk of the court shall pay any mandatory fine imposed pursuant to division (D)(1) of this section and any fine other than a mandatory fine that is imposed for a violation of this section pursuant to division (A) or (B)(5) of section 2929.18 of the Revised Code to the county, township, municipal corporation, park district, as created pursuant to section 511.18 or 1545.04 of the Revised Code, or state law enforcement agencies in this state that primarily were responsible for or involved in making the arrest of, and in prosecuting, the offender. However, the clerk shall not pay a mandatory fine so imposed to a law enforcement agency unless the agency has adopted a written internal control policy under division (F)(2) of this section that addresses the use of the fine moneys that it receives. Each agency shall use the mandatory fines so paid to subsidize the agency's law enforcement efforts that pertain to drug offenses, in accordance with the written internal control policy adopted by the recipient agency under division (F)(2) of this section.

(2) Prior to receiving any fine moneys under division (F)(1) of this section or division (B) of section 2925.42 of the Revised Code, a law enforcement agency shall adopt a written internal control policy that addresses the agency's use and disposition of all fine moneys so received and that provides for the keeping of detailed financial records of the receipts of those fine moneys, the general types of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure. The policy shall not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation. All financial records of the receipts of those fine moneys, the general types of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure by an agency are public records open for inspection under section 149.43 of the Revised Code. Additionally, a written internal control policy adopted under this division is such a public record, and the agency that adopted it shall comply with it.

(3) As used in division (F) of this section:

(a) "Law enforcement agencies" includes, but is not limited to, the state board of pharmacy and the office of a prosecutor.

(b) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(G)(1) If the sentencing court suspends the offender's driver's or commercial driver's license or permit under division (D) of this section or any other provision of this chapter, the court shall suspend the license, by order, for not more than five years. If an offender's driver's or commercial driver's license or permit is suspended pursuant to this division, the offender, at any time after the expiration of two years from the day on which the offender's sentence was imposed or from the day on which the offender finally was released from a prison term under the sentence, whichever is later, may file a motion with the sentencing court requesting termination of the suspension; upon the filing



of such a motion and the court's finding of good cause for the termination, the court may terminate the suspension.

(2) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to ~~the effective date of this amendment~~ September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of section 4511.19 of the Revised Code or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.

Upon the filing of a motion under division (G)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.

(H)(1) In addition to any prison term authorized or required by division (C) of this section and sections 2929.13 and 2929.14 of the Revised Code, in addition to any other penalty or sanction imposed for the offense under this section or sections 2929.11 to 2929.18 of the Revised Code, and in addition to the forfeiture of property in connection with the offense as prescribed in Chapter 2981. of the Revised Code, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (A) of this section may impose upon the offender an additional fine specified for the offense in division (B)(4) of section 2929.18 of the Revised Code. A fine imposed under division (H)(1) of this section is not subject to division (F) of this section and shall be used solely for the support of one or more eligible community addiction services providers in accordance with divisions (H)(2) and (3) of this section.

(2) The court that imposes a fine under division (H)(1) of this section shall specify in the judgment that imposes the fine one or more eligible community addiction services providers for the support of which the fine money is to be used. No community addiction services provider shall receive or use money paid or collected in satisfaction of a fine imposed under division (H)(1) of this section unless the services provider is specified in the judgment that imposes the fine. No community addiction services provider shall be specified in the judgment unless the services provider is an eligible community addiction services provider and, except as otherwise provided in division (H)(2) of this section, unless the services provider is located in the county in which the court that imposes the fine is located or in a county that is immediately contiguous to the county in which that court is located. If no eligible community addiction services provider is located in any of those counties, the judgment may specify an eligible community addiction services provider that is located anywhere within this state.

(3) Notwithstanding any contrary provision of section 3719.21 of the Revised Code, the clerk of the court shall pay any fine imposed under division (H)(1) of this section to the eligible community addiction services provider specified pursuant to division (H)(2) of this section in the judgment. The eligible community addiction services provider that receives the fine moneys shall use the moneys only for the alcohol and drug addiction services identified in the application for certification of services under section 5119.36 of the Revised Code or in the application for a license under section 5119.391 of the Revised Code filed with the department of mental health and addiction services by the community addiction services provider specified in the judgment.

(4) Each community addiction services provider that receives in a calendar year any fine

moneys under division (H)(3) of this section shall file an annual report covering that calendar year with the court of common pleas and the board of county commissioners of the county in which the services provider is located, with the court of common pleas and the board of county commissioners of each county from which the services provider received the moneys if that county is different from the county in which the services provider is located, and with the attorney general. The community addiction services provider shall file the report no later than the first day of March in the calendar year following the calendar year in which the services provider received the fine moneys. The report shall include statistics on the number of persons served by the community addiction services provider, identify the types of alcohol and drug addiction services provided to those persons, and include a specific accounting of the purposes for which the fine moneys received were used. No information contained in the report shall identify, or enable a person to determine the identity of, any person served by the community addiction services provider. Each report received by a court of common pleas, a board of county commissioners, or the attorney general is a public record open for inspection under section 149.43 of the Revised Code.

(5) As used in divisions (H)(1) to (5) of this section:

(a) "Community addiction services provider" and "alcohol and drug addiction services" have the same meanings as in section 5119.01 of the Revised Code.

(b) "Eligible community addiction services provider" means a community addiction services provider, as defined in section 5119.01 of the Revised Code, or a community addiction services provider that maintains a methadone treatment program licensed under section 5119.391 of the Revised Code.

(I) As used in this section, "drug" includes any substance that is represented to be a drug.

(J) It is an affirmative defense to a charge of trafficking in a controlled substance analog under division (C)(8) of this section that the person charged with violating that offense sold or offered to sell, or prepared for shipment, shipped, transported, delivered, prepared for distribution, or distributed an item described in division (HH)(2)(a), (b), or (c) of section 3719.01 of the Revised Code.

**Sec. 2929.13.** (A) Except as provided in division (E), (F), or (G) of this section and unless a specific sanction is required to be imposed or is precluded from being imposed pursuant to law, a court that imposes a sentence upon an offender for a felony may impose any sanction or combination of sanctions on the offender that are provided in sections 2929.14 to 2929.18 of the Revised Code.

If the offender is eligible to be sentenced to community control sanctions, the court shall consider the appropriateness of imposing a financial sanction pursuant to section 2929.18 of the Revised Code or a sanction of community service pursuant to section 2929.17 of the Revised Code as the sole sanction for the offense. Except as otherwise provided in this division, if the court is required to impose a mandatory prison term for the offense for which sentence is being imposed, the court also shall impose any financial sanction pursuant to section 2929.18 of the Revised Code that is required for the offense and may impose any other financial sanction pursuant to that section but may not impose any additional sanction or combination of sanctions under section 2929.16 or 2929.17 of the Revised Code.

If the offender is being sentenced for a fourth degree felony OVI offense or for a third degree felony OVI offense, in addition to the mandatory term of local incarceration or the mandatory prison

term required for the offense by division (G)(1) or (2) of this section, the court shall impose upon the offender a mandatory fine in accordance with division (B)(3) of section 2929.18 of the Revised Code and may impose whichever of the following is applicable:

(1) For a fourth degree felony OVI offense for which sentence is imposed under division (G)(1) of this section, an additional community control sanction or combination of community control sanctions under section 2929.16 or 2929.17 of the Revised Code. If the court imposes upon the offender a community control sanction and the offender violates any condition of the community control sanction, the court may take any action prescribed in division (B) of section 2929.15 of the Revised Code relative to the offender, including imposing a prison term on the offender pursuant to that division.

(2) For a third or fourth degree felony OVI offense for which sentence is imposed under division (G)(2) of this section, an additional prison term as described in division (B)(4) of section 2929.14 of the Revised Code or a community control sanction as described in division (G)(2) of this section.

(B)(1)(a) Except as provided in division (B)(1)(b) of this section, if an offender is convicted of or pleads guilty to a felony of the fourth or fifth degree that is not an offense of violence or that is a qualifying assault offense, the court shall sentence the offender to a community control sanction of at least one year's duration if all of the following apply:

(i) The offender previously has not been convicted of or pleaded guilty to a felony offense.

(ii) The most serious charge against the offender at the time of sentencing is a felony of the fourth or fifth degree.

(iii) If the court made a request of the department of rehabilitation and correction pursuant to division (B)(1)(c) of this section, the department, within the forty-five-day period specified in that division, provided the court with the names of, contact information for, and program details of one or more community control sanctions of at least one year's duration that are available for persons sentenced by the court.

(iv) The offender previously has not been convicted of or pleaded guilty to a misdemeanor offense of violence that the offender committed within two years prior to the offense for which sentence is being imposed.

(b) The court has discretion to impose a prison term upon an offender who is convicted of or pleads guilty to a felony of the fourth or fifth degree that is not an offense of violence or that is a qualifying assault offense if any of the following apply:

(i) The offender committed the offense while having a firearm on or about the offender's person or under the offender's control.

(ii) If the offense is a qualifying assault offense, the offender caused serious physical harm to another person while committing the offense, and, if the offense is not a qualifying assault offense, the offender caused physical harm to another person while committing the offense.

(iii) The offender violated a term of the conditions of bond as set by the court.

(iv) The court made a request of the department of rehabilitation and correction pursuant to division (B)(1)(c) of this section, and the department, within the forty-five-day period specified in that division, did not provide the court with the name of, contact information for, and program details of any community control sanction of at least one year's duration that is available for persons

sentenced by the court.

(v) The offense is a sex offense that is a fourth or fifth degree felony violation of any provision of Chapter 2907. of the Revised Code.

(vi) In committing the offense, the offender attempted to cause or made an actual threat of physical harm to a person with a deadly weapon.

(vii) In committing the offense, the offender attempted to cause or made an actual threat of physical harm to a person, and the offender previously was convicted of an offense that caused physical harm to a person.

(viii) The offender held a public office or position of trust, and the offense related to that office or position; the offender's position obliged the offender to prevent the offense or to bring those committing it to justice; or the offender's professional reputation or position facilitated the offense or was likely to influence the future conduct of others.

(ix) The offender committed the offense for hire or as part of an organized criminal activity.

(x) The offender at the time of the offense was serving, or the offender previously had served, a prison term.

(xi) The offender committed the offense while under a community control sanction, while on probation, or while released from custody on a bond or personal recognizance.

(c) If a court that is sentencing an offender who is convicted of or pleads guilty to a felony of the fourth or fifth degree that is not an offense of violence or that is a qualifying assault offense believes that no community control sanctions are available for its use that, if imposed on the offender, will adequately fulfill the overriding principles and purposes of sentencing, the court shall contact the department of rehabilitation and correction and ask the department to provide the court with the names of, contact information for, and program details of one or more community control sanctions of at least one year's duration that are available for persons sentenced by the court. Not later than forty-five days after receipt of a request from a court under this division, the department shall provide the court with the names of, contact information for, and program details of one or more community control sanctions of at least one year's duration that are available for persons sentenced by the court, if any. Upon making a request under this division that relates to a particular offender, a court shall defer sentencing of that offender until it receives from the department the names of, contact information for, and program details of one or more community control sanctions of at least one year's duration that are available for persons sentenced by the court or for forty-five days, whichever is the earlier.

If the department provides the court with the names of, contact information for, and program details of one or more community control sanctions of at least one year's duration that are available for persons sentenced by the court within the forty-five-day period specified in this division, the court shall impose upon the offender a community control sanction under division (B)(1)(a) of this section, except that the court may impose a prison term under division (B)(1)(b) of this section if a factor described in division (B)(1)(b)(i) or (ii) of this section applies. If the department does not provide the court with the names of, contact information for, and program details of one or more community control sanctions of at least one year's duration that are available for persons sentenced by the court within the forty-five-day period specified in this division, the court may impose upon the offender a prison term under division (B)(1)(b)(iv) of this section.

(d) A sentencing court may impose an additional penalty under division (B) of section 2929.15 of the Revised Code upon an offender sentenced to a community control sanction under division (B)(1)(a) of this section if the offender violates the conditions of the community control sanction, violates a law, or leaves the state without the permission of the court or the offender's probation officer.

(2) If division (B)(1) of this section does not apply, except as provided in division (E), (F), or (G) of this section, in determining whether to impose a prison term as a sanction for a felony of the fourth or fifth degree, the sentencing court shall comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code and with section 2929.12 of the Revised Code.

(C) Except as provided in division (D), (E), (F), or (G) of this section, in determining whether to impose a prison term as a sanction for a felony of the third degree or a felony drug offense that is a violation of a provision of Chapter 2925. of the Revised Code and that is specified as being subject to this division for purposes of sentencing, the sentencing court shall comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code and with section 2929.12 of the Revised Code.

(D)(1) Except as provided in division (E) or (F) of this section, for a felony of the first or second degree, for a felony drug offense that is a violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code for which a presumption in favor of a prison term is specified as being applicable, and for a violation of division (A)(4) or (B) of section 2907.05 of the Revised Code for which a presumption in favor of a prison term is specified as being applicable, it is presumed that a prison term is necessary in order to comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code. Division (D)(2) of this section does not apply to a presumption established under this division for a violation of division (A)(4) of section 2907.05 of the Revised Code.

(2) Notwithstanding the presumption established under division (D)(1) of this section for the offenses listed in that division other than a violation of division (A)(4) or (B) of section 2907.05 of the Revised Code, the sentencing court may impose a community control sanction or a combination of community control sanctions instead of a prison term on an offender for a felony of the first or second degree or for a felony drug offense that is a violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code for which a presumption in favor of a prison term is specified as being applicable if it makes both of the following findings:

(a) A community control sanction or a combination of community control sanctions would adequately punish the offender and protect the public from future crime, because the applicable factors under section 2929.12 of the Revised Code indicating a lesser likelihood of recidivism outweigh the applicable factors under that section indicating a greater likelihood of recidivism.

(b) A community control sanction or a combination of community control sanctions would not demean the seriousness of the offense, because one or more factors under section 2929.12 of the Revised Code that indicate that the offender's conduct was less serious than conduct normally constituting the offense are applicable, and they outweigh the applicable factors under that section that indicate that the offender's conduct was more serious than conduct normally constituting the offense.

(E)(1) Except as provided in division (F) of this section, for any drug offense that is a

violation of any provision of Chapter 2925. of the Revised Code and that is a felony of the third, fourth, or fifth degree, the applicability of a presumption under division (D) of this section in favor of a prison term or of division (B) or (C) of this section in determining whether to impose a prison term for the offense shall be determined as specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the Revised Code, whichever is applicable regarding the violation.

(2) If an offender who was convicted of or pleaded guilty to a felony violates the conditions of a community control sanction imposed for the offense solely by reason of producing positive results on a drug test or by acting pursuant to division (B)(2)(b) of section 2925.11 of the Revised Code with respect to a minor drug possession offense, the court, as punishment for the violation of the sanction, shall not order that the offender be imprisoned unless the court determines on the record either of the following:

(a) The offender had been ordered as a sanction for the felony to participate in a drug treatment program, in a drug education program, or in narcotics anonymous or a similar program, and the offender continued to use illegal drugs after a reasonable period of participation in the program.

(b) The imprisonment of the offender for the violation is consistent with the purposes and principles of sentencing set forth in section 2929.11 of the Revised Code.

(3) A court that sentences an offender for a drug abuse offense that is a felony of the third, fourth, or fifth degree may require that the offender be assessed by a properly credentialed professional within a specified period of time. The court shall require the professional to file a written assessment of the offender with the court. If the offender is eligible for a community control sanction and after considering the written assessment, the court may impose a community control sanction that includes addiction services and recovery supports included in a community-based continuum of care established under section 340.032 of the Revised Code. If the court imposes addiction services and recovery supports as a community control sanction, the court shall direct the level and type of addiction services and recovery supports after considering the assessment and recommendation of community addiction services providers.

(F) Notwithstanding divisions (A) to (E) of this section, the court shall impose a prison term or terms under sections 2929.02 to 2929.06, section 2929.14, section 2929.142, or section 2971.03 of the Revised Code and except as specifically provided in section 2929.20, divisions (C) to (I) of section 2967.19, or section 2967.191 of the Revised Code or when parole is authorized for the offense under section 2967.13 of the Revised Code shall not reduce the term or terms pursuant to section 2929.20, section 2967.19, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code for any of the following offenses:

(1) Aggravated murder when death is not imposed or murder;

(2) Any rape, regardless of whether force was involved and regardless of the age of the victim, or an attempt to commit rape if, had the offender completed the rape that was attempted, the offender would have been guilty of a violation of division (A)(1)(b) of section 2907.02 of the Revised Code and would be sentenced under section 2971.03 of the Revised Code;

(3) Gross sexual imposition or sexual battery, if the victim is less than thirteen years of age and if any of the following applies:

(a) Regarding gross sexual imposition, the offender previously was convicted of or pleaded guilty to rape, the former offense of felonious sexual penetration, gross sexual imposition, or sexual battery, and the victim of the previous offense was less than thirteen years of age;

(b) Regarding gross sexual imposition, the offense was committed on or after August 3, 2006, and evidence other than the testimony of the victim was admitted in the case corroborating the violation.

(c) Regarding sexual battery, either of the following applies:

(i) The offense was committed prior to August 3, 2006, the offender previously was convicted of or pleaded guilty to rape, the former offense of felonious sexual penetration, or sexual battery, and the victim of the previous offense was less than thirteen years of age.

(ii) The offense was committed on or after August 3, 2006.

(4) A felony violation of section 2903.04, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2905.32, 2907.07, 2921.321, or 2923.132 of the Revised Code if the section requires the imposition of a prison term;

(5) A first, second, or third degree felony drug offense for which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, or 4729.99 of the Revised Code, whichever is applicable regarding the violation, requires the imposition of a mandatory prison term;

(6) Any offense that is a first or second degree felony and that is not set forth in division (F)(1), (2), (3), or (4) of this section, if the offender previously was convicted of or pleaded guilty to aggravated murder, murder, any first or second degree felony, or an offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to one of those offenses;

(7) Any offense that is a third degree felony and either is a violation of section 2903.04 of the Revised Code or an attempt to commit a felony of the second degree that is an offense of violence and involved an attempt to cause serious physical harm to a person or that resulted in serious physical harm to a person if the offender previously was convicted of or pleaded guilty to any of the following offenses:

(a) Aggravated murder, murder, involuntary manslaughter, rape, felonious sexual penetration as it existed under section 2907.12 of the Revised Code prior to September 3, 1996, a felony of the first or second degree that resulted in the death of a person or in physical harm to a person, or complicity in or an attempt to commit any of those offenses;

(b) An offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to an offense listed in division (F)(7)(a) of this section that resulted in the death of a person or in physical harm to a person.

(8) Any offense, other than a violation of section 2923.12 of the Revised Code, that is a felony, if the offender had a firearm on or about the offender's person or under the offender's control while committing the felony, with respect to a portion of the sentence imposed pursuant to division (B)(1)(a) of section 2929.14 of the Revised Code for having the firearm;

(9) Any offense of violence that is a felony, if the offender wore or carried body armor while committing the felony offense of violence, with respect to the portion of the sentence imposed pursuant to division (B)(1)(d) of section 2929.14 of the Revised Code for wearing or carrying the

body armor;

(10) Corrupt activity in violation of section 2923.32 of the Revised Code when the most serious offense in the pattern of corrupt activity that is the basis of the offense is a felony of the first degree;

(11) Any violent sex offense or designated homicide, assault, or kidnapping offense if, in relation to that offense, the offender is adjudicated a sexually violent predator;

(12) A violation of division (A)(1) or (2) of section 2921.36 of the Revised Code, or a violation of division (C) of that section involving an item listed in division (A)(1) or (2) of that section, if the offender is an officer or employee of the department of rehabilitation and correction;

(13) A violation of division (A)(1) or (2) of section 2903.06 of the Revised Code if the victim of the offense is a peace officer, as defined in section 2935.01 of the Revised Code, or an investigator of the bureau of criminal identification and investigation, as defined in section 2903.11 of the Revised Code, with respect to the portion of the sentence imposed pursuant to division (B)(5) of section 2929.14 of the Revised Code;

(14) A violation of division (A)(1) or (2) of section 2903.06 of the Revised Code if the offender has been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code or an equivalent offense, as defined in section 2941.1415 of the Revised Code, or three or more violations of any combination of those divisions and offenses, with respect to the portion of the sentence imposed pursuant to division (B)(6) of section 2929.14 of the Revised Code;

(15) Kidnapping, in the circumstances specified in section 2971.03 of the Revised Code and when no other provision of division (F) of this section applies;

(16) Kidnapping, abduction, compelling prostitution, promoting prostitution, engaging in a pattern of corrupt activity, illegal use of a minor in a nudity-oriented material or performance in violation of division (A)(1) or (2) of section 2907.323 of the Revised Code, or endangering children in violation of division (B)(1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code, if the offender is convicted of or pleads guilty to a specification as described in section 2941.1422 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense;

(17) A felony violation of division (A) or (B) of section 2919.25 of the Revised Code if division (D)(3), (4), or (5) of that section, and division (D)(6) of that section, require the imposition of a prison term;

(18) A felony violation of section 2903.11, 2903.12, or 2903.13 of the Revised Code, if the victim of the offense was a woman that the offender knew was pregnant at the time of the violation, with respect to a portion of the sentence imposed pursuant to division (B)(8) of section 2929.14 of the Revised Code;

(19)(a) Any violent felony offense if the offender is a violent career criminal and had a firearm on or about the offender's person or under the offender's control during the commission of the violent felony offense and displayed or brandished the firearm, indicated that the offender possessed a firearm, or used the firearm to facilitate the offense, with respect to the portion of the sentence imposed under division (K) of section 2929.14 of the Revised Code.

(b) As used in division (F)(19)(a) of this section, "violent career criminal" and "violent felony



offense" have the same meanings as in section 2923.132 of the Revised Code;

(20) Any violation of division (A)(1) of section 2903.11 of the Revised Code if the offender used an accelerant in committing the violation and the serious physical harm to another or another's unborn caused by the violation resulted in a permanent, serious disfigurement or permanent, substantial incapacity or any violation of division (A)(2) of that section if the offender used an accelerant in committing the violation, the violation caused physical harm to another or another's unborn, and the physical harm resulted in a permanent, serious disfigurement or permanent, substantial incapacity, with respect to a portion of the sentence imposed pursuant to division (B)(9) of section 2929.14 of the Revised Code. The provisions of this division and of division (D)(2) of section 2903.11, divisions (B)(9) and (C)(6) of section 2929.14, and section 2941.1425 of the Revised Code shall be known as "Judy's Law."

(G) Notwithstanding divisions (A) to (E) of this section, if an offender is being sentenced for a fourth degree felony OVI offense or for a third degree felony OVI offense, the court shall impose upon the offender a mandatory term of local incarceration or a mandatory prison term in accordance with the following:

(1) If the offender is being sentenced for a fourth degree felony OVI offense and if the offender has not been convicted of and has not pleaded guilty to a specification of the type described in section 2941.1413 of the Revised Code, the court may impose upon the offender a mandatory term of local incarceration of sixty days or one hundred twenty days as specified in division (G)(1)(d) of section 4511.19 of the Revised Code. The court shall not reduce the term pursuant to section 2929.20, 2967.193, or any other provision of the Revised Code. The court that imposes a mandatory term of local incarceration under this division shall specify whether the term is to be served in a jail, a community-based correctional facility, a halfway house, or an alternative residential facility, and the offender shall serve the term in the type of facility specified by the court. A mandatory term of local incarceration imposed under division (G)(1) of this section is not subject to any other Revised Code provision that pertains to a prison term except as provided in division (A)(1) of this section.

(2) If the offender is being sentenced for a third degree felony OVI offense, or if the offender is being sentenced for a fourth degree felony OVI offense and the court does not impose a mandatory term of local incarceration under division (G)(1) of this section, the court shall impose upon the offender a mandatory prison term of one, two, three, four, or five years if the offender also is convicted of or also pleads guilty to a specification of the type described in section 2941.1413 of the Revised Code or shall impose upon the offender a mandatory prison term of sixty days or one hundred twenty days as specified in division (G)(1)(d) or (e) of section 4511.19 of the Revised Code if the offender has not been convicted of and has not pleaded guilty to a specification of that type. Subject to divisions (C) to (I) of section 2967.19 of the Revised Code, the court shall not reduce the term pursuant to section 2929.20, 2967.19, 2967.193, or any other provision of the Revised Code. The offender shall serve the one-, two-, three-, four-, or five-year mandatory prison term consecutively to and prior to the prison term imposed for the underlying offense and consecutively to any other mandatory prison term imposed in relation to the offense. In no case shall an offender who once has been sentenced to a mandatory term of local incarceration pursuant to division (G)(1) of this section for a fourth degree felony OVI offense be sentenced to another mandatory term of local incarceration under that division for any violation of division (A) of section 4511.19 of the Revised

Code. In addition to the mandatory prison term described in division (G)(2) of this section, the court may sentence the offender to a community control sanction under section 2929.16 or 2929.17 of the Revised Code, but the offender shall serve the prison term prior to serving the community control sanction. The department of rehabilitation and correction may place an offender sentenced to a mandatory prison term under this division in an intensive program prison established pursuant to section 5120.033 of the Revised Code if the department gave the sentencing judge prior notice of its intent to place the offender in an intensive program prison established under that section and if the judge did not notify the department that the judge disapproved the placement. Upon the establishment of the initial intensive program prison pursuant to section 5120.033 of the Revised Code that is privately operated and managed by a contractor pursuant to a contract entered into under section 9.06 of the Revised Code, both of the following apply:

(a) The department of rehabilitation and correction shall make a reasonable effort to ensure that a sufficient number of offenders sentenced to a mandatory prison term under this division are placed in the privately operated and managed prison so that the privately operated and managed prison has full occupancy.

(b) Unless the privately operated and managed prison has full occupancy, the department of rehabilitation and correction shall not place any offender sentenced to a mandatory prison term under this division in any intensive program prison established pursuant to section 5120.033 of the Revised Code other than the privately operated and managed prison.

(H) If an offender is being sentenced for a sexually oriented offense or child-victim oriented offense that is a felony committed on or after January 1, 1997, the judge shall require the offender to submit to a DNA specimen collection procedure pursuant to section 2901.07 of the Revised Code.

(I) If an offender is being sentenced for a sexually oriented offense or a child-victim oriented offense committed on or after January 1, 1997, the judge shall include in the sentence a summary of the offender's duties imposed under sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code and the duration of the duties. The judge shall inform the offender, at the time of sentencing, of those duties and of their duration. If required under division (A)(2) of section 2950.03 of the Revised Code, the judge shall perform the duties specified in that section, or, if required under division (A)(6) of section 2950.03 of the Revised Code, the judge shall perform the duties specified in that division.

(J)(1) Except as provided in division (J)(2) of this section, when considering sentencing factors under this section in relation to an offender who is convicted of or pleads guilty to an attempt to commit an offense in violation of section 2923.02 of the Revised Code, the sentencing court shall consider the factors applicable to the felony category of the violation of section 2923.02 of the Revised Code instead of the factors applicable to the felony category of the offense attempted.

(2) When considering sentencing factors under this section in relation to an offender who is convicted of or pleads guilty to an attempt to commit a drug abuse offense for which the penalty is determined by the amount or number of unit doses of the controlled substance involved in the drug abuse offense, the sentencing court shall consider the factors applicable to the felony category that the drug abuse offense attempted would be if that drug abuse offense had been committed and had involved an amount or number of unit doses of the controlled substance that is within the next lower range of controlled substance amounts than was involved in the attempt.

(K) As used in this section:

(1) "Community addiction services provider" has the same meaning as in section 5119.01 of the Revised Code.

(2) "Drug abuse offense" has the same meaning as in section 2925.01 of the Revised Code.

(3) "Minor drug possession offense" has the same meaning as in section 2925.11 of the Revised Code.

(4) "Qualifying assault offense" means a violation of section 2903.13 of the Revised Code for which the penalty provision in division (C)(8)(b) or (C)(9)(b) of that section applies.

(L) At the time of sentencing an offender for any sexually oriented offense, if the offender is a tier III sex offender/child-victim offender relative to that offense and the offender does not serve a prison term or jail term, the court may require that the offender be monitored by means of a global positioning device. If the court requires such monitoring, the cost of monitoring shall be borne by the offender. If the offender is indigent, the cost of compliance shall be paid by the crime victims reparations fund.

**Sec. 2929.18.** (A) Except as otherwise provided in this division and in addition to imposing court costs pursuant to section 2947.23 of the Revised Code, the court imposing a sentence upon an offender for a felony may sentence the offender to any financial sanction or combination of financial sanctions authorized under this section or, in the circumstances specified in section 2929.32 of the Revised Code, may impose upon the offender a fine in accordance with that section. Financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:

(1) Restitution by the offender to the victim of the offender's crime or any survivor of the victim, in an amount based on the victim's economic loss. If the court imposes restitution, the court shall order that the restitution be made to the victim in open court, to the adult probation department that serves the county on behalf of the victim, to the clerk of courts, or to another agency designated by the court. If the court imposes restitution, at sentencing, the court shall determine the amount of restitution to be made by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of the economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court decides to impose restitution, the court shall hold a hearing on restitution if the offender, victim, or survivor disputes the amount. All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender.

If the court imposes restitution, the court may order that the offender pay a surcharge of not more than five per cent of the amount of the restitution otherwise ordered to the entity responsible for collecting and processing restitution payments.

The victim or survivor may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate.

(2) Except as provided in division (B)(1), (3), or (4) of this section, a fine payable by the offender to the state, to a political subdivision, or as described in division (B)(2) of this section to one or more law enforcement agencies, with the amount of the fine based on a standard percentage of the

offender's daily income over a period of time determined by the court and based upon the seriousness of the offense. A fine ordered under this division shall not exceed the maximum conventional fine amount authorized for the level of the offense under division (A)(3) of this section.

(3) Except as provided in division (B)(1), (3), or (4) of this section, a fine payable by the offender to the state, to a political subdivision when appropriate for a felony, or as described in division (B)(2) of this section to one or more law enforcement agencies, in the following amount:

- (a) For a felony of the first degree, not more than twenty thousand dollars;
- (b) For a felony of the second degree, not more than fifteen thousand dollars;
- (c) For a felony of the third degree, not more than ten thousand dollars;
- (d) For a felony of the fourth degree, not more than five thousand dollars;
- (e) For a felony of the fifth degree, not more than two thousand five hundred dollars.

(4) A state fine or costs as defined in section 2949.111 of the Revised Code.

(5)(a) Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including the following:

(i) All or part of the costs of implementing any community control sanction, including a supervision fee under section 2951.021 of the Revised Code;

(ii) All or part of the costs of confinement under a sanction imposed pursuant to section 2929.14, 2929.142, or 2929.16 of the Revised Code, provided that the amount of reimbursement ordered under this division shall not exceed the total amount of reimbursement the offender is able to pay as determined at a hearing and shall not exceed the actual cost of the confinement;

(iii) All or part of the cost of purchasing and using an immobilizing or disabling device, including a certified ignition interlock device, or a remote alcohol monitoring device that a court orders an offender to use under section 4510.13 of the Revised Code.

(b) If the offender is sentenced to a sanction of confinement pursuant to section 2929.14 or 2929.16 of the Revised Code that is to be served in a facility operated by a board of county commissioners, a legislative authority of a municipal corporation, or another local governmental entity, if, pursuant to section 307.93, 341.14, 341.19, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code and section 2929.37 of the Revised Code, the board, legislative authority, or other local governmental entity requires prisoners to reimburse the county, municipal corporation, or other entity for its expenses incurred by reason of the prisoner's confinement, and if the court does not impose a financial sanction under division (A)(5)(a)(ii) of this section, confinement costs may be assessed pursuant to section 2929.37 of the Revised Code. In addition, the offender may be required to pay the fees specified in section 2929.38 of the Revised Code in accordance with that section.

(c) Reimbursement by the offender for costs pursuant to section 2929.71 of the Revised Code.

(B)(1) For a first, second, or third degree felony violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code, the sentencing court shall impose upon the offender a mandatory fine of at least one-half of, but not more than, the maximum statutory fine amount authorized for the level of the offense pursuant to division (A)(3) of this section. If an offender alleges in an affidavit filed with the court prior to sentencing that the offender is indigent and unable to pay the mandatory fine and if the court determines the offender is an indigent person and is unable

to pay the mandatory fine described in this division, the court shall not impose the mandatory fine upon the offender.

(2) Any mandatory fine imposed upon an offender under division (B)(1) of this section and any fine imposed upon an offender under division (A)(2) or (3) of this section for any fourth or fifth degree felony violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code shall be paid to law enforcement agencies pursuant to division (F) of section 2925.03 of the Revised Code.

(3) For a fourth degree felony OVI offense and for a third degree felony OVI offense, the sentencing court shall impose upon the offender a mandatory fine in the amount specified in division (G)(1)(d) or (e) of section 4511.19 of the Revised Code, whichever is applicable. The mandatory fine so imposed shall be disbursed as provided in the division pursuant to which it is imposed.

(4) Notwithstanding any fine otherwise authorized or required to be imposed under division (A)(2) or (3) or (B)(1) of this section or section 2929.31 of the Revised Code for a violation of section 2925.03 of the Revised Code, in addition to any penalty or sanction imposed for that offense under section 2925.03 or sections 2929.11 to 2929.18 of the Revised Code and in addition to the forfeiture of property in connection with the offense as prescribed in Chapter 2981. of the Revised Code, the court that sentences an offender for a violation of section 2925.03 of the Revised Code may impose upon the offender a fine in addition to any fine imposed under division (A)(2) or (3) of this section and in addition to any mandatory fine imposed under division (B)(1) of this section. The fine imposed under division (B)(4) of this section shall be used as provided in division (H) of section 2925.03 of the Revised Code. A fine imposed under division (B)(4) of this section shall not exceed whichever of the following is applicable:

(a) The total value of any personal or real property in which the offender has an interest and that was used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of section 2925.03 of the Revised Code, including any property that constitutes proceeds derived from that offense;

(b) If the offender has no interest in any property of the type described in division (B)(4)(a) of this section or if it is not possible to ascertain whether the offender has an interest in any property of that type in which the offender may have an interest, the amount of the mandatory fine for the offense imposed under division (B)(1) of this section or, if no mandatory fine is imposed under division (B)(1) of this section, the amount of the fine authorized for the level of the offense imposed under division (A)(3) of this section.

(5) Prior to imposing a fine under division (B)(4) of this section, the court shall determine whether the offender has an interest in any property of the type described in division (B)(4)(a) of this section. Except as provided in division (B)(6) or (7) of this section, a fine that is authorized and imposed under division (B)(4) of this section does not limit or affect the imposition of the penalties and sanctions for a violation of section 2925.03 of the Revised Code prescribed under those sections or sections 2929.11 to 2929.18 of the Revised Code and does not limit or affect a forfeiture of property in connection with the offense as prescribed in Chapter 2981. of the Revised Code.

(6) If the sum total of a mandatory fine amount imposed for a first, second, or third degree felony violation of section 2925.03 of the Revised Code under division (B)(1) of this section plus the amount of any fine imposed under division (B)(4) of this section does not exceed the maximum statutory fine amount authorized for the level of the offense under division (A)(3) of this section or

section 2929.31 of the Revised Code, the court may impose a fine for the offense in addition to the mandatory fine and the fine imposed under division (B)(4) of this section. The sum total of the amounts of the mandatory fine, the fine imposed under division (B)(4) of this section, and the additional fine imposed under division (B)(6) of this section shall not exceed the maximum statutory fine amount authorized for the level of the offense under division (A)(3) of this section or section 2929.31 of the Revised Code. The clerk of the court shall pay any fine that is imposed under division (B)(6) of this section to the county, township, municipal corporation, park district as created pursuant to section 511.18 or 1545.04 of the Revised Code, or state law enforcement agencies in this state that primarily were responsible for or involved in making the arrest of, and in prosecuting, the offender pursuant to division (F) of section 2925.03 of the Revised Code.

(7) If the sum total of the amount of a mandatory fine imposed for a first, second, or third degree felony violation of section 2925.03 of the Revised Code plus the amount of any fine imposed under division (B)(4) of this section exceeds the maximum statutory fine amount authorized for the level of the offense under division (A)(3) of this section or section 2929.31 of the Revised Code, the court shall not impose a fine under division (B)(6) of this section.

(8)(a) If an offender who is convicted of or pleads guilty to a violation of section 2905.01, 2905.02, 2907.21, 2907.22, or 2923.32, division (A)(1) or (2) of section 2907.323, or division (B)(1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code also is convicted of or pleads guilty to a specification of the type described in section 2941.1422 of the Revised Code that charges that the offender knowingly committed the offense in furtherance of human trafficking, the sentencing court shall sentence the offender to a financial sanction of restitution by the offender to the victim or any survivor of the victim, with the restitution including the costs of housing, counseling, and medical and legal assistance incurred by the victim as a direct result of the offense and the greater of the following:

(i) The gross income or value to the offender of the victim's labor or services;

(ii) The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the "Federal Fair Labor Standards Act of 1938," 52 Stat. 1060, 20 U.S.C. 207, and state labor laws.

(b) If a court imposing sentence upon an offender for a felony is required to impose upon the offender a financial sanction of restitution under division (B)(8)(a) of this section, in addition to that financial sanction of restitution, the court may sentence the offender to any other financial sanction or combination of financial sanctions authorized under this section, including a restitution sanction under division (A)(1) of this section.

(9) In addition to any other fine that is or may be imposed under this section, the court imposing sentence upon an offender for a felony that is a sexually oriented offense or a child-victim oriented offense, as those terms are defined in section 2950.01 of the Revised Code, may impose a fine of not less than fifty nor more than five hundred dollars.

(10) For a felony violation of division (A) of section 2921.321 of the Revised Code that results in the death of the police dog or horse that is the subject of the violation, the sentencing court shall impose upon the offender a mandatory fine from the range of fines provided under division (A)(3) of this section for a felony of the third degree. A mandatory fine imposed upon an offender under division (B)(10) of this section shall be paid to the law enforcement agency that was served by the

police dog or horse that was killed in the felony violation of division (A) of section 2921.321 of the Revised Code to be used as provided in division (E)(1)(b) of that section.

(11) In addition to any other fine that is or may be imposed under this section, the court imposing sentence upon an offender for any of the following offenses that is a felony may impose a fine of not less than seventy nor more than five hundred dollars, which shall be transmitted to the treasurer of state to be credited to the address confidentiality program fund created by section 111.48 of the Revised Code:

- (a) Domestic violence;
- (b) Menacing by stalking;
- (c) Rape;
- (d) Sexual battery;
- (e) Trafficking in persons;

(f) A violation of section 2905.01, 2905.02, 2907.21, 2907.22, or 2923.32, division (A)(1) or (2) of section 2907.323, or division (B)(1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code, if the offender also is convicted of a specification of the type described in section 2941.1422 of the Revised Code that charges that the offender knowingly committed the offense in furtherance of human trafficking.

(C)(1) Except as provided in section 2951.021 of the Revised Code, the offender shall pay reimbursements imposed upon the offender pursuant to division (A)(5)(a) of this section to pay the costs incurred by a county pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.16 of the Revised Code to the county treasurer. The county treasurer shall deposit the reimbursements in the sanction cost reimbursement fund that each board of county commissioners shall create in its county treasury. The county shall use the amounts deposited in the fund to pay the costs incurred by the county pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.16 of the Revised Code.

(2) Except as provided in section 2951.021 of the Revised Code, the offender shall pay reimbursements imposed upon the offender pursuant to division (A)(5)(a) of this section to pay the costs incurred by a municipal corporation pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.16 of the Revised Code to the treasurer of the municipal corporation. The treasurer shall deposit the reimbursements in a special fund that shall be established in the treasury of each municipal corporation. The municipal corporation shall use the amounts deposited in the fund to pay the costs incurred by the municipal corporation pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.16 of the Revised Code.

(3) Except as provided in section 2951.021 of the Revised Code, the offender shall pay reimbursements imposed pursuant to division (A)(5)(a) of this section for the costs incurred by a private provider pursuant to a sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code to the provider.

(D) Except as otherwise provided in this division, a financial sanction imposed pursuant to division (A) or (B) of this section is a judgment in favor of the state or a political subdivision in which the court that imposed the financial sanction is located, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (A)(5)(a)(ii) of this section upon an offender who is incarcerated in a state facility or a municipal jail is a judgment in favor of the state or the municipal corporation, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed upon an offender pursuant to this section for costs incurred by a private provider of sanctions is a judgment in favor of the private provider, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of a mandatory fine imposed under division (B) (10) of this section that is required under that division to be paid to a law enforcement agency is a judgment in favor of the specified law enforcement agency, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of restitution imposed pursuant to division (A) (1) or (B)(8) of this section is an order in favor of the victim of the offender's criminal act that can be collected through a certificate of judgment as described in division (D)(1) of this section, through execution as described in division (D)(2) of this section, or through an order as described in division (D)(3) of this section, and the offender shall be considered for purposes of the collection as the judgment debtor. Imposition of a financial sanction and execution on the judgment does not preclude any other power of the court to impose or enforce sanctions on the offender. Once the financial sanction is imposed as a judgment or order under this division, the victim, private provider, state, or political subdivision may do any of the following:

(1) Obtain from the clerk of the court in which the judgment was entered a certificate of judgment that shall be in the same manner and form as a certificate of judgment issued in a civil action;

(2) Obtain execution of the judgment or order through any available procedure, including:

(a) An execution against the property of the judgment debtor under Chapter 2329. of the Revised Code;

(b) An execution against the person of the judgment debtor under Chapter 2331. of the Revised Code;

(c) A proceeding in aid of execution under Chapter 2333. of the Revised Code, including:

(i) A proceeding for the examination of the judgment debtor under sections 2333.09 to 2333.12 and sections 2333.15 to 2333.27 of the Revised Code;

(ii) A proceeding for attachment of the person of the judgment debtor under section 2333.28 of the Revised Code;

(iii) A creditor's suit under section 2333.01 of the Revised Code.

(d) The attachment of the property of the judgment debtor under Chapter 2715. of the Revised Code;

(e) The garnishment of the property of the judgment debtor under Chapter 2716. of the Revised Code.

(3) Obtain an order for the assignment of wages of the judgment debtor under section 1321.33 of the Revised Code.

(E) A court that imposes a financial sanction upon an offender may hold a hearing if



necessary to determine whether the offender is able to pay the sanction or is likely in the future to be able to pay it.

(F) Each court imposing a financial sanction upon an offender under this section or under section 2929.32 of the Revised Code may designate the clerk of the court or another person to collect the financial sanction. The clerk or other person authorized by law or the court to collect the financial sanction may enter into contracts with one or more public agencies or private vendors for the collection of, amounts due under the financial sanction imposed pursuant to this section or section 2929.32 of the Revised Code. Before entering into a contract for the collection of amounts due from an offender pursuant to any financial sanction imposed pursuant to this section or section 2929.32 of the Revised Code, a court shall comply with sections 307.86 to 307.92 of the Revised Code.

(G) If a court that imposes a financial sanction under division (A) or (B) of this section finds that an offender satisfactorily has completed all other sanctions imposed upon the offender and that all restitution that has been ordered has been paid as ordered, the court may suspend any financial sanctions imposed pursuant to this section or section 2929.32 of the Revised Code that have not been paid.

(H) No financial sanction imposed under this section or section 2929.32 of the Revised Code shall preclude a victim from bringing a civil action against the offender.

**Sec. 2929.20.** (A) As used in this section:

(1)(a) Except as provided in division (A)(1)(b) of this section, "eligible offender" means any person who, on or after April 7, 2009, is serving a stated prison term that includes one or more nonmandatory prison terms.

(b) "Eligible offender" does not include any person who, on or after April 7, 2009, is serving a stated prison term for any of the following criminal offenses that was a felony and was committed while the person held a public office in this state:

(i) A violation of section 2921.02, 2921.03, 2921.05, 2921.31, 2921.32, 2921.41, 2921.42, or 2923.32 of the Revised Code;

(ii) A violation of section 2913.42, 2921.04, 2921.11, or 2921.12 of the Revised Code, when the conduct constituting the violation was related to the duties of the offender's public office or to the offender's actions as a public official holding that public office;

(iii) A violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially equivalent to any violation listed in division (A)(1)(b)(i) of this section;

(iv) A violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially equivalent to any violation listed in division (A)(1)(b)(ii) of this section, when the conduct constituting the violation was related to the duties of the offender's public office or to the offender's actions as a public official holding that public office;

(v) A conspiracy to commit, attempt to commit, or complicity in committing any offense listed in division (A)(1)(b)(i) or described in division (A)(1)(b)(iii) of this section;

(vi) A conspiracy to commit, attempt to commit, or complicity in committing any offense listed in division (A)(1)(b)(ii) or described in division (A)(1)(b)(iv) of this section, if the conduct constituting the offense that was the subject of the conspiracy, that would have constituted the offense attempted, or constituting the offense in which the offender was complicit was or would have

been related to the duties of the offender's public office or to the offender's actions as a public official holding that public office.

(2) "Nonmandatory prison term" means a prison term that is not a mandatory prison term.

(3) "Public office" means any elected federal, state, or local government office in this state.

(4) "Victim's representative" has the same meaning as in section 2930.01 of the Revised Code.

(5) "Imminent danger of death," "medically incapacitated," and "terminal illness" have the same meanings as in section 2967.05 of the Revised Code.

(B) On the motion of an eligible offender or upon its own motion, the sentencing court may reduce the eligible offender's aggregated nonmandatory prison term or terms through a judicial release under this section.

(C) An eligible offender may file a motion for judicial release with the sentencing court within the following applicable periods:

(1) If the aggregated nonmandatory prison term or terms is less than two years, the eligible offender may file the motion at any time after the offender is delivered to a state correctional institution or, if the prison term includes a mandatory prison term or terms, at any time after the expiration of all mandatory prison terms.

(2) If the aggregated nonmandatory prison term or terms is at least two years but less than five years, the eligible offender may file the motion not earlier than one hundred eighty days after the offender is delivered to a state correctional institution or, if the prison term includes a mandatory prison term or terms, not earlier than one hundred eighty days after the expiration of all mandatory prison terms.

(3) If the aggregated nonmandatory prison term or terms is five years, the eligible offender may file the motion not earlier than the date on which the eligible offender has served four years of the offender's stated prison term or, if the prison term includes a mandatory prison term or terms, not earlier than four years after the expiration of all mandatory prison terms.

(4) If the aggregated nonmandatory prison term or terms is more than five years but not more than ten years, the eligible offender may file the motion not earlier than the date on which the eligible offender has served five years of the offender's stated prison term or, if the prison term includes a mandatory prison term or terms, not earlier than five years after the expiration of all mandatory prison terms.

(5) If the aggregated nonmandatory prison term or terms is more than ten years, the eligible offender may file the motion not earlier than the later of the date on which the offender has served one-half of the offender's stated prison term or the date specified in division (C)(4) of this section.

(D) Upon receipt of a timely motion for judicial release filed by an eligible offender under division (C) of this section or upon the sentencing court's own motion made within the appropriate time specified in that division, the court may deny the motion without a hearing or schedule a hearing on the motion. The court shall not grant the motion without a hearing. If a court denies a motion without a hearing, the court later may consider judicial release for that eligible offender on a subsequent motion filed by that eligible offender unless the court denies the motion with prejudice. If a court denies a motion with prejudice, the court may later consider judicial release on its own motion. If a court denies a motion after a hearing, the court shall not consider a subsequent motion

for that eligible offender. The court shall hold only one hearing for any eligible offender.

A hearing under this section shall be conducted in open court not less than thirty or more than sixty days after the motion is filed, provided that the court may delay the hearing for one hundred eighty additional days. If the court holds a hearing, the court shall enter a ruling on the motion within ten days after the hearing. If the court denies the motion without a hearing, the court shall enter its ruling on the motion within sixty days after the motion is filed.

(E) If a court schedules a hearing under division (D) of this section, the court shall notify the eligible offender and the head of the state correctional institution in which the eligible offender is confined prior to the hearing. The head of the state correctional institution immediately shall notify the appropriate person at the department of rehabilitation and correction of the hearing, and the department within twenty-four hours after receipt of the notice, shall post on the database it maintains pursuant to section 5120.66 of the Revised Code the offender's name and all of the information specified in division (A)(1)(c)(i) of that section. If the court schedules a hearing for judicial release, the court promptly shall give notice of the hearing to the prosecuting attorney of the county in which the eligible offender was indicted. Upon receipt of the notice from the court, the prosecuting attorney shall do whichever of the following is applicable:

(1) Subject to division (E)(2) of this section, notify the victim of the offense or the victim's representative pursuant to division (B) of section 2930.16 of the Revised Code;

(2) If the offense was an offense of violence that is a felony of the first, second, or third degree, except as otherwise provided in this division, notify the victim or the victim's representative of the hearing regardless of whether the victim or victim's representative has requested the notification. The notice of the hearing shall not be given under this division to a victim or victim's representative if the victim or victim's representative has requested pursuant to division (B)(2) of section 2930.03 of the Revised Code that the victim or the victim's representative not be provided the notice. If notice is to be provided to a victim or victim's representative under this division, the prosecuting attorney may give the notice by any reasonable means, including regular mail, telephone, and electronic mail, in accordance with division (D)(1) of section 2930.16 of the Revised Code. If the notice is based on an offense committed prior to March 22, 2013, the notice also shall include the opt-out information described in division (D)(1) of section 2930.16 of the Revised Code. The prosecuting attorney, in accordance with division (D)(2) of section 2930.16 of the Revised Code, shall keep a record of all attempts to provide the notice, and of all notices provided, under this division. Division (E)(2) of this section, and the notice-related provisions of division (K) of this section, division (D)(1) of section 2930.16, division (H) of section 2967.12, division (E)(1)(b) of section 2967.19, division (A)(3)(b) of section 2967.26, division (D)(1) of section 2967.28, and division (A)(2) of section 5149.101 of the Revised Code enacted in the act in which division (E)(2) of this section was enacted, shall be known as "Roberta's Law."

(F) Upon an offender's successful completion of rehabilitative activities, the head of the state correctional institution may notify the sentencing court of the successful completion of the activities.

(G) Prior to the date of the hearing on a motion for judicial release under this section, the head of the state correctional institution in which the eligible offender is confined shall send to the court an institutional summary report on the eligible offender's conduct in the institution and in any institution from which the eligible offender may have been transferred. Upon the request of the

prosecuting attorney of the county in which the eligible offender was indicted or of any law enforcement agency, the head of the state correctional institution, at the same time the person sends the institutional summary report to the court, also shall send a copy of the report to the requesting prosecuting attorney and law enforcement agencies. The institutional summary report shall cover the eligible offender's participation in school, vocational training, work, treatment, and other rehabilitative activities and any disciplinary action taken against the eligible offender. The report shall be made part of the record of the hearing. A presentence investigation report is not required for judicial release.

(H) If the court grants a hearing on a motion for judicial release under this section, the eligible offender shall attend the hearing if ordered to do so by the court. Upon receipt of a copy of the journal entry containing the order, the head of the state correctional institution in which the eligible offender is incarcerated shall deliver the eligible offender to the sheriff of the county in which the hearing is to be held. The sheriff shall convey the eligible offender to and from the hearing.

(I) At the hearing on a motion for judicial release under this section, the court shall afford the eligible offender and the eligible offender's attorney an opportunity to present written and, if present, oral information relevant to the motion. The court shall afford a similar opportunity to the prosecuting attorney, the victim or the victim's representative, and any other person the court determines is likely to present additional relevant information. The court shall consider any statement of a victim made pursuant to section 2930.14 or 2930.17 of the Revised Code, any victim impact statement prepared pursuant to section 2947.051 of the Revised Code, and any report made under division (G) of this section. The court may consider any written statement of any person submitted to the court pursuant to division (L) of this section. After ruling on the motion, the court shall notify the victim of the ruling in accordance with sections 2930.03 and 2930.16 of the Revised Code.

(J)(1) A court shall not grant a judicial release under this section to an eligible offender who is imprisoned for a felony of the first or second degree, or to an eligible offender who committed an offense under Chapter 2925. or 3719. of the Revised Code and for whom there was a presumption under section 2929.13 of the Revised Code in favor of a prison term, unless the court, with reference to factors under section 2929.12 of the Revised Code, finds both of the following:

(a) That a sanction other than a prison term would adequately punish the offender and protect the public from future criminal violations by the eligible offender because the applicable factors indicating a lesser likelihood of recidivism outweigh the applicable factors indicating a greater likelihood of recidivism;

(b) That a sanction other than a prison term would not demean the seriousness of the offense because factors indicating that the eligible offender's conduct in committing the offense was less serious than conduct normally constituting the offense outweigh factors indicating that the eligible offender's conduct was more serious than conduct normally constituting the offense.

(2) A court that grants a judicial release to an eligible offender under division (J)(1) of this section shall specify on the record both findings required in that division and also shall list all the factors described in that division that were presented at the hearing.

(K) If the court grants a motion for judicial release under this section, the court shall order the release of the eligible offender, shall place the eligible offender under an appropriate community control sanction, under appropriate conditions, and under the supervision of the department of

probation serving the court and shall reserve the right to reimpose the sentence that it reduced if the offender violates the sanction. If the court reimposes the reduced sentence, it may do so either concurrently with, or consecutive to, any new sentence imposed upon the eligible offender as a result of the violation that is a new offense. Except as provided in division (R)(2) of this section, the period of community control shall be no longer than five years. The court, in its discretion, may reduce the period of community control by the amount of time the eligible offender spent in jail or prison for the offense and in prison. If the court made any findings pursuant to division (J)(1) of this section, the court shall serve a copy of the findings upon counsel for the parties within fifteen days after the date on which the court grants the motion for judicial release.

If the court grants a motion for judicial release, the court shall notify the appropriate person at the department of rehabilitation and correction, and the department shall post notice of the release on the database it maintains pursuant to section 5120.66 of the Revised Code. The court also shall notify the prosecuting attorney of the county in which the eligible offender was indicted that the motion has been granted. Unless the victim or the victim's representative has requested pursuant to division (B)(2) of section 2930.03 of the Revised Code that the victim or victim's representative not be provided the notice, the prosecuting attorney shall notify the victim or the victim's representative of the judicial release in any manner, and in accordance with the same procedures, pursuant to which the prosecuting attorney is authorized to provide notice of the hearing pursuant to division (E)(2) of this section. If the notice is based on an offense committed prior to March 22, 2013, the notice to the victim or victim's representative also shall include the opt-out information described in division (D)(1) of section 2930.16 of the Revised Code.

(L) In addition to and independent of the right of a victim to make a statement pursuant to section 2930.14, 2930.17, or 2946.051 of the Revised Code and any right of a person to present written information or make a statement pursuant to division (I) of this section, any person may submit to the court, at any time prior to the hearing on the offender's motion for judicial release, a written statement concerning the effects of the offender's crime or crimes, the circumstances surrounding the crime or crimes, the manner in which the crime or crimes were perpetrated, and the person's opinion as to whether the offender should be released.

(M) The changes to this section that are made on September 30, 2011, apply to any judicial release decision made on or after September 30, 2011, for any eligible offender.

(N) Notwithstanding the eligibility requirements specified in division (A) of this section and the filing time frames specified in division (C) of this section and notwithstanding the findings required under division (J) of this section, the sentencing court, upon the court's own motion and after considering whether the release of the offender into society would create undue risk to public safety, may grant a judicial release to an offender who is not serving a life sentence at any time during the offender's imposed sentence when the director of rehabilitation and correction certifies to the sentencing court through the chief medical officer for the department of rehabilitation and correction that the offender is in imminent danger of death, is medically incapacitated, or is suffering from a terminal illness.

(O) The director of rehabilitation and correction shall not certify any offender under division (N) of this section who is serving a death sentence.

(P) A motion made by the court under division (N) of this section is subject to the notice,

hearing, and other procedural requirements specified in divisions (D), (E), (G), (H), (I), (K), and (L) of this section, except for the following:

(1) The court may waive the offender's appearance at any hearing scheduled by the court if the offender's condition makes it impossible for the offender to participate meaningfully in the proceeding.

(2) The court may grant the motion without a hearing, provided that the prosecuting attorney and victim or victim's representative to whom notice of the hearing was provided under division (E) of this section indicate that they do not wish to participate in the hearing or present information relevant to the motion.

(Q) The court may request health care records from the department of rehabilitation and correction to verify the certification made under division (N) of this section.

(R)(1) If the court grants judicial release under division (N) of this section, the court shall do all of the following:

(a) Order the release of the offender;

(b) Place the offender under an appropriate community control sanction, under appropriate conditions;

(c) Place the offender under the supervision of the department of probation serving the court or under the supervision of the adult parole authority.

(2) The court, in its discretion, may revoke the judicial release if the offender violates the community control sanction described in division (R)(1) of this section. The period of that community control is not subject to the five-year limitation described in division (K) of this section and shall not expire earlier than the date on which all of the offender's mandatory prison terms expire.

(S) If the health of an offender who is released under division (N) of this section improves so that the offender is no longer terminally ill, medically incapacitated, or in imminent danger of death, the court shall, upon the court's own motion, revoke the judicial release. The court shall not grant the motion without a hearing unless the offender waives a hearing. If a hearing is held, the court shall afford the offender and the offender's attorney an opportunity to present written and, if the offender or the offender's attorney is present, oral information relevant to the motion. The court shall afford a similar opportunity to the prosecuting attorney, the victim or the victim's representative, and any other person the court determines is likely to present additional relevant information. A court that grants a motion under this division shall specify its findings on the record.

**Sec. 2935.33.** (A) If a person charged with a misdemeanor is taken before a judge of a court of record and if it appears to the judge that the person is an alcoholic or is suffering from acute alcohol intoxication and that the person would benefit from services provided by a community addiction services provider, the judge may place the person temporarily with a community addiction services provider in the area in which the court has jurisdiction for inpatient care and treatment for an indefinite period not exceeding five days. The commitment does not limit the right to release on bail. The judge may dismiss a charge of a violation of division (B) of section 2917.11 of the Revised Code or of a municipal ordinance substantially equivalent to that division if the defendant complies with all the conditions of treatment ordered by the court.

The court may order that any fines or court costs collected by the court from defendants who have received inpatient care from a community addiction services provider be paid, for the benefit of

the program, to the board of alcohol, drug addiction, and mental health services of the alcohol, drug addiction, and mental health service district in which the community addiction services provider is located or to the director of mental health and addiction services.

(B) If a person is being sentenced for a violation of division (B) of section 2917.11 or section 4511.19 of the Revised Code, a misdemeanor violation of section 2919.25 of the Revised Code, a misdemeanor violation of section 2919.27 of the Revised Code involving a protection order issued or consent agreement approved pursuant to section 2919.26 or 3113.31 of the Revised Code, or a violation of a municipal ordinance substantially equivalent to that division or any of those sections and if it appears to the judge at the time of sentencing that the person is an alcoholic or is suffering from acute alcohol intoxication and that, in lieu of imprisonment, the person would benefit from services provided by a community addiction services provider, the court may commit the person to close supervision in any facility in the area in which the court has jurisdiction that is, or is operated by, such a services provider. Such close supervision may include outpatient services and part-time release, except that a person convicted of a violation of division (A) of section 4511.19 of the Revised Code shall be confined to the facility for at least three days and except that a person convicted of a misdemeanor violation of section 2919.25 of the Revised Code, a misdemeanor violation of section 2919.27 of the Revised Code involving a protection order issued or consent agreement approved pursuant to section 2919.26 or 3113.31 of the Revised Code, or a violation of a substantially equivalent municipal ordinance shall be confined to the facility in accordance with the order of commitment. A commitment of a person to a facility for purposes of close supervision shall not exceed the maximum term for which the person could be imprisoned.

(C) A law enforcement officer who finds a person subject to prosecution for violation of division (B) of section 2917.11 of the Revised Code or a municipal ordinance substantially equivalent to that division and who has reasonable cause to believe that the person is an alcoholic or is suffering from acute alcohol intoxication and would benefit from immediate treatment immediately may place the person with a community addiction services provider in the area in which the person is found, for emergency treatment, in lieu of other arrest procedures, for a maximum period of forty-eight hours. During that time, if the person desires to leave such custody, the person shall be released forthwith.

(D) As used in this section:

(1) "Alcoholic" and "community addiction services provider" have the same meanings as in section 5119.01 of the Revised Code;

(2) "Acute alcohol intoxication" means a heavy consumption of alcohol over a relatively short period of time, resulting in dysfunction of the brain centers controlling behavior, speech, and memory and causing characteristic withdrawal symptoms.

**Sec. 2951.041.** (A)(1) If an offender is charged with a criminal offense, including but not limited to a violation of section 2913.02, 2913.03, 2913.11, 2913.21, 2913.31, or 2919.21 of the Revised Code, and the court has reason to believe that drug or alcohol usage by the offender was a factor leading to the criminal offense with which the offender is charged or that, at the time of committing that offense, the offender had a mental illness, was a person with an intellectual disability, or was a victim of a violation of section 2905.32 of the Revised Code and that the mental illness, status as a person with an intellectual disability, or fact that the offender was a victim of a

violation of section 2905.32 of the Revised Code was a factor leading to the offender's criminal behavior, the court may accept, prior to the entry of a guilty plea, the offender's request for intervention in lieu of conviction. The request shall include a statement from the offender as to whether the offender is alleging that drug or alcohol usage by the offender was a factor leading to the criminal offense with which the offender is charged or is alleging that, at the time of committing that offense, the offender had a mental illness, was a person with an intellectual disability, or was a victim of a violation of section 2905.32 of the Revised Code and that the mental illness, status as a person with an intellectual disability, or fact that the offender was a victim of a violation of section 2905.32 of the Revised Code was a factor leading to the criminal offense with which the offender is charged. The request also shall include a waiver of the defendant's right to a speedy trial, the preliminary hearing, the time period within which the grand jury may consider an indictment against the offender, and arraignment, unless the hearing, indictment, or arraignment has already occurred. The court may reject an offender's request without a hearing. If the court elects to consider an offender's request, the court shall conduct a hearing to determine whether the offender is eligible under this section for intervention in lieu of conviction and shall stay all criminal proceedings pending the outcome of the hearing. If the court schedules a hearing, the court shall order an assessment of the offender for the purpose of determining the offender's eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan.

If the offender alleges that drug or alcohol usage by the offender was a factor leading to the criminal offense with which the offender is charged, the court may order that the offender be assessed by a community addiction services provider or a properly credentialed professional for the purpose of determining the offender's eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan. The community addiction services provider or the properly credentialed professional shall provide a written assessment of the offender to the court.

(2) The victim notification provisions of division (C) of section 2930.06 of the Revised Code apply in relation to any hearing held under division (A)(1) of this section.

(B) An offender is eligible for intervention in lieu of conviction if the court finds all of the following:

(1) The offender previously has not been convicted of or pleaded guilty to a felony offense of violence or previously has been convicted of or pleaded guilty to any felony that is not an offense of violence and the prosecuting attorney recommends that the offender be found eligible for participation in intervention in lieu of treatment under this section, previously has not been through intervention in lieu of conviction under this section or any similar regimen, and is charged with a felony for which the court, upon conviction, would impose a community control sanction on the offender under division (B)(2) of section 2929.13 of the Revised Code or with a misdemeanor.

(2) The offense is not a felony of the first, second, or third degree, is not an offense of violence, is not a violation of division (A)(1) or (2) of section 2903.06 of the Revised Code, is not a violation of division (A)(1) of section 2903.08 of the Revised Code, is not a violation of division (A) of section 4511.19 of the Revised Code or a municipal ordinance that is substantially similar to that division, and is not an offense for which a sentencing court is required to impose a mandatory prison term, a mandatory term of local incarceration, or a mandatory term of imprisonment in a jail.

(3) The offender is not charged with a violation of section 2925.02, 2925.04, or 2925.06 of



the Revised Code, is not charged with a violation of section 2925.03 of the Revised Code that is a felony of the first, second, third, or fourth degree, and is not charged with a violation of section 2925.11 of the Revised Code that is a felony of the first, second, or third degree.

(4) If an offender alleges that drug or alcohol usage by the offender was a factor leading to the criminal offense with which the offender is charged, the court has ordered that the offender be assessed by a community addiction services provider or a properly credentialed professional for the purpose of determining the offender's eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan, the offender has been assessed by a community addiction services provider of that nature or a properly credentialed professional in accordance with the court's order, and the community addiction services provider or properly credentialed professional has filed the written assessment of the offender with the court.

(5) If an offender alleges that, at the time of committing the criminal offense with which the offender is charged, the offender had a mental illness, was a person with an intellectual disability, or was a victim of a violation of section 2905.32 of the Revised Code and that the mental illness, status as a person with an intellectual disability, or fact that the offender was a victim of a violation of section 2905.32 of the Revised Code was a factor leading to that offense, the offender has been assessed by a psychiatrist, psychologist, independent social worker, licensed professional clinical counselor, or independent marriage and family therapist for the purpose of determining the offender's eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan.

(6) The offender's drug usage, alcohol usage, mental illness, or intellectual disability, or the fact that the offender was a victim of a violation of section 2905.32 of the Revised Code, whichever is applicable, was a factor leading to the criminal offense with which the offender is charged, intervention in lieu of conviction would not demean the seriousness of the offense, and intervention would substantially reduce the likelihood of any future criminal activity.

(7) The alleged victim of the offense was not sixty-five years of age or older, permanently and totally disabled, under thirteen years of age, or a peace officer engaged in the officer's official duties at the time of the alleged offense.

(8) If the offender is charged with a violation of section 2925.24 of the Revised Code, the alleged violation did not result in physical harm to any person, and the offender previously has not been treated for drug abuse.

(9) The offender is willing to comply with all terms and conditions imposed by the court pursuant to division (D) of this section.

(10) The offender is not charged with an offense that would result in the offender being disqualified under Chapter 4506. of the Revised Code from operating a commercial motor vehicle or would subject the offender to any other sanction under that chapter.

(C) At the conclusion of a hearing held pursuant to division (A) of this section, the court shall enter its determination as to whether the offender is eligible for intervention in lieu of conviction and as to whether to grant the offender's request. If the court finds under division (B) of this section that the offender is eligible for intervention in lieu of conviction and grants the offender's request, the court shall accept the offender's plea of guilty and waiver of the defendant's right to a speedy trial, the preliminary hearing, the time period within which the grand jury may consider an indictment against the offender, and arraignment, unless the hearing, indictment, or arraignment has already occurred. In

addition, the court then may stay all criminal proceedings and order the offender to comply with all terms and conditions imposed by the court pursuant to division (D) of this section. If the court finds that the offender is not eligible or does not grant the offender's request, the criminal proceedings against the offender shall proceed as if the offender's request for intervention in lieu of conviction had not been made.

(D) If the court grants an offender's request for intervention in lieu of conviction, the court shall place the offender under the general control and supervision of the county probation department, the adult parole authority, or another appropriate local probation or court services agency, if one exists, as if the offender was subject to a community control sanction imposed under section 2929.15, 2929.18, or 2929.25 of the Revised Code. The court shall establish an intervention plan for the offender. The terms and conditions of the intervention plan shall require the offender, for at least one year from the date on which the court grants the order of intervention in lieu of conviction, to abstain from the use of illegal drugs and alcohol, to participate in treatment and recovery support services, and to submit to regular random testing for drug and alcohol use and may include any other treatment terms and conditions, or terms and conditions similar to community control sanctions, which may include community service or restitution, that are ordered by the court.

(E) If the court grants an offender's request for intervention in lieu of conviction and the court finds that the offender has successfully completed the intervention plan for the offender, including the requirement that the offender abstain from using illegal drugs and alcohol for a period of at least one year from the date on which the court granted the order of intervention in lieu of conviction, the requirement that the offender participate in treatment and recovery support services, and all other terms and conditions ordered by the court, the court shall dismiss the proceedings against the offender. Successful completion of the intervention plan and period of abstinence under this section shall be without adjudication of guilt and is not a criminal conviction for purposes of any disqualification or disability imposed by law and upon conviction of a crime, and the court may order the sealing of records related to the offense in question in the manner provided in sections 2953.31 to 2953.36 of the Revised Code.

(F) If the court grants an offender's request for intervention in lieu of conviction and the offender fails to comply with any term or condition imposed as part of the intervention plan for the offender, the supervising authority for the offender promptly shall advise the court of this failure, and the court shall hold a hearing to determine whether the offender failed to comply with any term or condition imposed as part of the plan. If the court determines that the offender has failed to comply with any of those terms and conditions, it may continue the offender on intervention in lieu of conviction, continue the offender on intervention in lieu of conviction with additional terms, conditions, and sanctions, or enter a finding of guilty and impose an appropriate sanction under Chapter 2929. of the Revised Code. If the court sentences the offender to a prison term, the court, after consulting with the department of rehabilitation and correction regarding the availability of services, may order continued court-supervised activity and treatment of the offender during the prison term and, upon consideration of reports received from the department concerning the offender's progress in the program of activity and treatment, may consider judicial release under section 2929.20 of the Revised Code.

(G) As used in this section:

(1) "Community addiction services provider" has the same meaning as in section 5119.01 of the Revised Code.

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

(3) "Intervention in lieu of conviction" means any court-supervised activity that complies with this section.

(4) "Intellectual disability" has the same meaning as in section 5123.01 of the Revised Code.

(5) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.

(6) "Mental illness" and "psychiatrist" have the same meanings as in section 5122.01 of the Revised Code.

(7) "Psychologist" has the same meaning as in section 4732.01 of the Revised Code.

**Sec. 2953.25.** (A) As used in this section:

(1) "Collateral sanction" means a penalty, disability, or disadvantage that is related to employment or occupational licensing, however denominated, as a result of the individual's conviction of or plea of guilty to an offense and that applies by operation of law in this state whether or not the penalty, disability, or disadvantage is included in the sentence or judgment imposed.

"Collateral sanction" does not include imprisonment, probation, parole, supervised release, forfeiture, restitution, fine, assessment, or costs of prosecution.

(2) "Decision-maker" includes, but is not limited to, the state acting through a department, agency, board, commission, or instrumentality established by the law of this state for the exercise of any function of government, a political subdivision, an educational institution, or a government contractor or subcontractor made subject to this section by contract, law, or ordinance.

(3) "Department-funded program" means a residential or nonresidential program that is not a term in a state correctional institution, that is funded in whole or part by the department of rehabilitation and correction, and that is imposed as a sanction for an offense, as part of a sanction that is imposed for an offense, or as a term or condition of any sanction that is imposed for an offense.

(4) "Designee" means the person designated by the deputy director of the division of parole and community services to perform the duties designated in division (B) of this section.

(5) "Division of parole and community services" means the division of parole and community services of the department of rehabilitation and correction.

(6) "Offense" means any felony or misdemeanor under the laws of this state.

(7) "Political subdivision" has the same meaning as in section 2969.21 of the Revised Code.

(8) "Discretionary civil impact," "licensing agency," and "mandatory civil impact" have the same meanings as in section 2961.21 of the Revised Code.

(B)(1) An individual who is subject to one or more collateral sanctions as a result of being convicted of or pleading guilty to an offense and who either has served a term in a state correctional institution for any offense or has spent time in a department-funded program for any offense may file a petition with the designee of the deputy director of the division of parole and community services for a certificate of qualification for employment.

(2) An individual who is subject to one or more collateral sanctions as a result of being convicted of or pleading guilty to an offense and who is not in a category described in division (B)(1)

of this section may file for a certificate of qualification for employment by doing either of the following:

(a) In the case of an individual who resides in this state, filing a petition with the court of common pleas of the county in which the person resides or with the designee of the deputy director of the division of parole and community services;

(b) In the case of an individual who resides outside of this state, filing a petition with the court of common pleas of any county in which any conviction or plea of guilty from which the individual seeks relief was entered or with the designee of the deputy director of the division of parole and community services.

(3) A petition under division (B)(1) or (2) of this section shall be made on a copy of the form prescribed by the division of parole and community services under division (J) of this section and shall contain all of the information described in division (F) of this section.

(4)(a) Except as provided in division (B)(4)(b) of this section, an individual may file a petition under division (B)(1) or (2) of this section at any time after the expiration of whichever of the following is applicable:

(i) If the offense that resulted in the collateral sanction from which the individual seeks relief is a felony, at any time after the expiration of one year from the date of release of the individual from any period of incarceration in a state or local correctional facility that was imposed for that offense and all periods of supervision imposed after release from the period of incarceration or, if the individual was not incarcerated for that offense, at any time after the expiration of one year from the date of the individual's final release from all other sanctions imposed for that offense.

(ii) If the offense that resulted in the collateral sanction from which the individual seeks relief is a misdemeanor, at any time after the expiration of six months from the date of release of the individual from any period of incarceration in a local correctional facility that was imposed for that offense and all periods of supervision imposed after release from the period of incarceration or, if the individual was not incarcerated for that offense, at any time after the expiration of six months from the date of the final release of the individual from all sanctions imposed for that offense including any period of supervision.

(b) The department of rehabilitation and correction may establish criteria by rule adopted under Chapter 119. of the Revised Code that, if satisfied by an individual, would allow the individual to file a petition before the expiration of six months or one year from the date of final release, whichever is applicable under division (B)(4)(a) of this section.

(5)(a) A designee that receives a petition for a certificate of qualification for employment from an individual under division (B)(1) or (2) of this section shall review the petition to determine whether it is complete. If the petition is complete, the designee shall forward the petition, and any other information the designee possesses that relates to the petition, to the court of common pleas of the county in which the individual resides if the individual submitting the petition resides in this state or, if the individual resides outside of this state, to the court of common pleas of the county in which the conviction or plea of guilty from which the individual seeks relief was entered.

(b) A court of common pleas that receives a petition for a certificate of qualification for employment from an individual under division (B)(2) of this section, or that is forwarded a petition for such a certificate under division (B)(5)(a) of this section, shall attempt to determine all other

courts in this state in which the individual was convicted of or pleaded guilty to an offense other than the offense from which the individual is seeking relief. The court that receives or is forwarded the petition shall notify all other courts in this state that it determines under this division were courts in which the individual was convicted of or pleaded guilty to an offense other than the offense from which the individual is seeking relief that the individual has filed the petition and that the court may send comments regarding the possible issuance of the certificate.

A court of common pleas that receives a petition for a certificate of qualification for employment under division (B)(2) of this section shall notify the county's prosecuting attorney that the individual has filed the petition.

A court of common pleas that receives a petition for a certificate of qualification for employment under division (B)(2) of this section, or that is forwarded a petition for qualification under division (B)(5)(a) of this section may direct the clerk of court to process and record all notices required in or under this section.

(C)(1) Upon receiving a petition for a certificate of qualification for employment filed by an individual under division (B)(2) of this section or being forwarded a petition for such a certificate under division (B)(5)(a) of this section, the court shall review the individual's petition, the individual's criminal history, all filings submitted by the prosecutor or by the victim in accordance with rules adopted by the division of parole and community services, the applicant's military service record, if applicable, and whether the applicant has an emotional, mental, or physical condition that is traceable to the applicant's military service in the armed forces of the United States and that was a contributing factor in the commission of the offense or offenses, and all other relevant evidence. The court may order any report, investigation, or disclosure by the individual that the court believes is necessary for the court to reach a decision on whether to approve the individual's petition for a certificate of qualification for employment.

(2) Upon receiving a petition for a certificate of qualification for employment filed by an individual under division (B)(2) of this section or being forwarded a petition for such a certificate under division (B)(5)(a) of this section, except as otherwise provided in this division, the court shall decide whether to issue the certificate within sixty days after the court receives or is forwarded the completed petition and all information requested for the court to make that decision. Upon request of the individual who filed the petition, the court may extend the sixty-day period specified in this division.

(3) Subject to division (C)(5) of this section, a court that receives an individual's petition for a certificate of qualification for employment under division (B)(2) of this section or that is forwarded a petition for such a certificate under division (B)(5)(a) of this section may issue a certificate of qualification for employment, at the court's discretion, if the court finds that the individual has established all of the following by a preponderance of the evidence:

(a) Granting the petition will materially assist the individual in obtaining employment or occupational licensing.

(b) The individual has a substantial need for the relief requested in order to live a law-abiding life.

(c) Granting the petition would not pose an unreasonable risk to the safety of the public or any individual.

(4) The submission of an incomplete petition by an individual shall not be grounds for the designee or court to deny the petition.

(5) A certificate of qualification for employment shall not create relief from any of the following collateral sanctions:

(a) Requirements imposed by Chapter 2950. of the Revised Code and rules adopted under sections 2950.13 and 2950.132 of the Revised Code;

(b) A driver's license, commercial driver's license, or probationary license suspension, cancellation, or revocation pursuant to section 4510.037, 4510.07, 4511.19, or 4511.191 of the Revised Code if the relief sought is available pursuant to section 4510.021 or division (B) of section 4510.13 of the Revised Code;

(c) Restrictions on employment as a prosecutor or law enforcement officer;

(d) The denial, ineligibility, or automatic suspension of a license that is imposed upon an individual applying for or holding a license as a health care professional under Title XLVII of the Revised Code if the individual is convicted of, pleads guilty to, is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state under section 2951.041 of the Revised Code, or is subject to treatment or intervention in lieu of conviction for a violation of section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, 2911.11, or 2919.123 of the Revised Code;

(e) The immediate suspension of a license, certificate, or evidence of registration that is imposed upon an individual holding a license as a health care professional under Title XLVII of the Revised Code pursuant to division (C) of section 3719.121 of the Revised Code;

(f) The denial or ineligibility for employment in a pain clinic under division (B)(4) of section 4729.552 of the Revised Code;

(g) The mandatory suspension of a license that is imposed on an individual applying for or holding a license as a health care professional under Title XLVII of the Revised Code pursuant to section 3123.43 of the Revised Code.

(6) If a court that receives an individual's petition for a certificate of qualification for employment under division (B)(2) of this section or that is forwarded a petition for such a certificate under division (B)(5)(a) of this section denies the petition, the court shall provide written notice to the individual of the court's denial. The court may place conditions on the individual regarding the individual's filing of any subsequent petition for a certificate of qualification for employment. The written notice must notify the individual of any conditions placed on the individual's filing of a subsequent petition for a certificate of qualification for employment.

If a court of common pleas that receives an individual's petition for a certificate of qualification for employment under division (B)(2) of this section or that is forwarded a petition for such a certificate under division (B)(5)(a) of this section denies the petition, the individual may appeal the decision to the court of appeals only if the individual alleges that the denial was an abuse of discretion on the part of the court of common pleas.

(D)(1) A certificate of qualification for employment issued to an individual lifts the automatic bar of a collateral sanction, and a decision-maker shall consider on a case-by-case basis whether to grant or deny the issuance or restoration of an occupational license or an employment opportunity, notwithstanding the individual's possession of the certificate, without, however, reconsidering or

rejecting any finding made by a designee or court under division (C)(3) of this section.

(2) The certificate constitutes a rebuttable presumption that the person's criminal convictions are insufficient evidence that the person is unfit for the license, employment opportunity, or certification in question. Notwithstanding the presumption established under this division, the agency may deny the license or certification for the person if it determines that the person is unfit for issuance of the license.

(3) If an employer that has hired a person who has been issued a certificate of qualification for employment applies to a licensing agency for a license or certification and the person has a conviction or guilty plea that otherwise would bar the person's employment with the employer or licensure for the employer because of a mandatory civil impact, the agency shall give the person individualized consideration, notwithstanding the mandatory civil impact, the mandatory civil impact shall be considered for all purposes to be a discretionary civil impact, and the certificate constitutes a rebuttable presumption that the person's criminal convictions are insufficient evidence that the person is unfit for the employment, or that the employer is unfit for the license or certification, in question.

(E) A certificate of qualification for employment does not grant the individual to whom the certificate was issued relief from the mandatory civil impacts identified in division (A)(1) of section 2961.01 or division (B) of section 2961.02 of the Revised Code.

(F) A petition for a certificate of qualification for employment filed by an individual under division (B)(1) or (2) of this section shall include all of the following:

- (1) The individual's name, date of birth, and social security number;
- (2) All aliases of the individual and all social security numbers associated with those aliases;
- (3) The individual's residence address, including the city, county, and state of residence and zip code;
- (4) The length of time that the individual has resided in the individual's current state of residence, expressed in years and months of residence;
- (5) A general statement as to why the individual has filed the petition and how the certificate of qualification for employment would assist the individual;
- (6) A summary of the individual's criminal history with respect to each offense that is a disqualification from employment or licensing in an occupation or profession, including the years of each conviction or plea of guilty for each of those offenses;
- (7) A summary of the individual's employment history, specifying the name of, and dates of employment with, each employer;
- (8) Verifiable references and endorsements;
- (9) The name of one or more immediate family members of the individual, or other persons with whom the individual has a close relationship, who support the individual's reentry plan;
- (10) A summary of the reason the individual believes the certificate of qualification for employment should be granted;
- (11) Any other information required by rule by the department of rehabilitation and correction.

(G)(1) In a judicial or administrative proceeding alleging negligence or other fault, a certificate of qualification for employment issued to an individual under this section may be introduced as evidence of a person's due care in hiring, retaining, licensing, leasing to, admitting to a

school or program, or otherwise transacting business or engaging in activity with the individual to whom the certificate of qualification for employment was issued if the person knew of the certificate at the time of the alleged negligence or other fault.

(2) In any proceeding on a claim against an employer for negligent hiring, a certificate of qualification for employment issued to an individual under this section shall provide immunity for the employer as to the claim if the employer knew of the certificate at the time of the alleged negligence.

(3) If an employer hires an individual who has been issued a certificate of qualification for employment under this section, if the individual, after being hired, subsequently demonstrates dangerousness or is convicted of or pleads guilty to a felony, and if the employer retains the individual as an employee after the demonstration of dangerousness or the conviction or guilty plea, the employer may be held liable in a civil action that is based on or relates to the retention of the individual as an employee only if it is proved by a preponderance of the evidence that the person having hiring and firing responsibility for the employer had actual knowledge that the employee was dangerous or had been convicted of or pleaded guilty to the felony and was willful in retaining the individual as an employee after the demonstration of dangerousness or the conviction or guilty plea of which the person has actual knowledge.

(H) A certificate of qualification for employment issued under this section shall be revoked if the individual to whom the certificate of qualification for employment was issued is convicted of or pleads guilty to a felony offense committed subsequent to the issuance of the certificate of qualification for employment. The department of rehabilitation and correction shall periodically review the certificates listed in the database described in division (K) of this section to identify those that are subject to revocation under this division. Upon identifying a certificate of qualification for employment that is subject to revocation, the department shall note in the database that the certificate has been revoked, the reason for revocation, and the effective date of revocation, which shall be the date of the conviction or plea of guilty subsequent to the issuance of the certificate.

(I) A designee's forwarding, or failure to forward, a petition for a certificate of qualification for employment to a court or a court's issuance, or failure to issue, a petition for a certificate of qualification for employment to an individual under division (B) of this section does not give rise to a claim for damages against the department of rehabilitation and correction or court.

(J) The division of parole and community services shall adopt rules in accordance with Chapter 119. of the Revised Code for the implementation and administration of this section and shall prescribe the form for the petition to be used under division (B)(1) or (2) of this section. The form for the petition shall include places for all of the information specified in division (F) of this section.

(K) The department of rehabilitation and correction shall maintain a database that identifies granted certificates and revoked certificates and tracks the number of certificates granted and revoked, the industries, occupations, and professions with respect to which the certificates have been most applicable, and the types of employers that have accepted the certificates. The department shall annually create a report that summarizes the information maintained in the database and shall make the report available to the public on its internet web site.

**Sec. 2967.14.** (A) The department of rehabilitation and correction or the adult parole authority may require or allow a parolee, a releasee, or a prisoner otherwise released from a state



correctional institution to reside in a halfway house or other suitable community residential center that has been licensed by the division of parole and community services pursuant to division (C) of this section during a part or for the entire period of the offender's or parolee's conditional release or of the releasee's term of post-release control. The court of common pleas that placed an offender under a sanction consisting of a term in a halfway house or in an alternative residential sanction may require the offender to reside in a halfway house or other suitable community residential center that is designated by the court and that has been licensed by the division pursuant to division (C) of this section during a part or for the entire period of the offender's residential sanction.

(B) The division of parole and community services may negotiate and enter into agreements with any public or private agency or a department or political subdivision of the state that operates a halfway house, reentry center, or community residential center that has been licensed by the division pursuant to division (C) of this section. An agreement under this division shall provide for the purchase of beds, shall set limits of supervision and levels of occupancy, and shall determine the scope of services for all eligible offenders, including those subject to a residential sanction, as defined in rules adopted by the director of rehabilitation and correction in accordance with Chapter 119. of the Revised Code, or those released from prison without supervision. The payments for beds and services shall not exceed the total operating costs of the halfway house, reentry center, or community residential center during the term of an agreement. The director of rehabilitation and correction shall adopt rules in accordance with Chapter 119. of the Revised Code for determining includable and excludable costs and income to be used in computing the agency's average daily per capita costs with its facility at full occupancy.

The director of rehabilitation and correction shall adopt rules providing for the use of no more than fifteen per cent of the amount appropriated to the department each fiscal year for the halfway house, reentry center, and community residential center program to pay for contracts with licensed halfway houses for nonresidential services for offenders under the supervision of the adult parole authority, including but not limited to, offenders supervised pursuant to an agreement entered into by the adult parole authority and a court of common pleas under section 2301.32 of the Revised Code. The nonresidential services may include, but are not limited to, treatment for substance abuse, mental health counseling, counseling for sex offenders, electronic monitoring services, aftercare, and other nonresidential services that the director identifies by rule.

(C) The division of parole and community services may license a halfway house, reentry center, or community residential center as a suitable facility for the care and treatment of adult offenders, including offenders sentenced under section 2929.16 or 2929.26 of the Revised Code, only if the halfway house, reentry center, or community residential center complies with the standards that the division adopts in accordance with Chapter 119. of the Revised Code for the licensure of halfway houses, reentry centers, and community residential centers. The division shall annually inspect each licensed halfway house, licensed reentry center, and licensed community residential center to determine if it is in compliance with the licensure standards.

(D) The division of parole and community services may expend up to one-half per cent of the annual appropriation made for halfway house programs, for goods or services that benefit those programs.

**Sec. 2967.193.** (A)(1) Except as provided in division (C) of this section and subject to the

maximum aggregate total specified in division (A)(3) of this section, a person confined in a state correctional institution or placed in the substance use disorder treatment program may provisionally earn one day or five days of credit, based on the category set forth in division (D)(1), (2), (3), (4), or (5) of this section in which the person is included, toward satisfaction of the person's stated prison term for each completed month during which the person, if confined in a state correctional institution, productively participates in an education program, vocational training, employment in prison industries, treatment for substance abuse, or any other constructive program developed by the department with specific standards for performance by prisoners or during which the person, if placed in the substance use disorder treatment program, productively participates in the program. Except as provided in division (C) of this section and subject to the maximum aggregate total specified in division (A)(3) of this section, a person so confined in a state correctional institution who successfully completes two programs or activities of that type may, in addition, provisionally earn up to five days of credit toward satisfaction of the person's stated prison term for the successful completion of the second program or activity. The person shall not be awarded any provisional days of credit for the successful completion of the first program or activity or for the successful completion of any program or activity that is completed after the second program or activity. At the end of each calendar month in which a person productively participates in a program or activity listed in this division or successfully completes a program or activity listed in this division, the department of rehabilitation and correction shall determine and record the total number of days credit that the person provisionally earned in that calendar month. If the person in a state correctional institution violates prison rules or the person in the substance use disorder treatment program violates program or department rules, the department may deny the person a credit that otherwise could have been provisionally awarded to the person or may withdraw one or more credits previously provisionally earned by the person. Days of credit provisionally earned by a person shall be finalized and awarded by the department subject to administrative review by the department of the person's conduct.

(2) Unless a person is serving a mandatory prison term or a prison term for an offense of violence or a sexually oriented offense, and notwithstanding the maximum aggregate total specified in division (A)(3) of this section, a person who successfully completes any of the following shall earn ninety days of credit toward satisfaction of the person's stated prison term or a ten per cent reduction of the person's stated prison term, whichever is less:

(a) An Ohio high school diploma or Ohio certificate of high school equivalence certified by the Ohio central school system;

(b) A therapeutic drug community program;

(c) All three phases of the department of rehabilitation and correction's intensive outpatient drug treatment program;

(d) A career technical vocational school program;

(e) A college certification program;

(f) The criteria for a certificate of achievement and employability as specified in division (A)(1) of section 2961.22 of the Revised Code.

(3) Except for persons described in division (A)(2) of this section, the aggregate days of credit provisionally earned by a person for program or activity participation and program and activity completion under this section and the aggregate days of credit finally credited to a person under this

section shall not exceed eight per cent of the total number of days in the person's stated prison term.

(B) The department of rehabilitation and correction shall adopt rules that specify the programs or activities for which credit may be earned under this section, the criteria for determining productive participation in, or completion of, the programs or activities and the criteria for awarding credit, including criteria for awarding additional credit for successful program or activity completion, and the criteria for denying or withdrawing previously provisionally earned credit as a result of a violation of prison rules, or program or department rules, whichever is applicable.

(C) No person confined in a state correctional institution or placed in a substance use disorder treatment program to whom any of the following applies shall be awarded any days of credit under division (A) of this section:

(1) The person is serving a prison term that section 2929.13 or section 2929.14 of the Revised Code specifies cannot be reduced pursuant to this section or this chapter or is serving a sentence for which section 2967.13 or division (B) of section 2929.143 of the Revised Code specifies that the person is not entitled to any earned credit under this section.

(2) The person is sentenced to death or is serving a prison term or a term of life imprisonment for aggravated murder, murder, or a conspiracy or attempt to commit, or complicity in committing, aggravated murder or murder.

(3) The person is serving a sentence of life imprisonment without parole imposed pursuant to section 2929.03 or 2929.06 of the Revised Code, a prison term or a term of life imprisonment without parole imposed pursuant to section 2971.03 of the Revised Code, or a sentence for a sexually oriented offense that was committed on or after September 30, 2011.

(D) This division does not apply to a determination of whether a person confined in a state correctional institution or placed in a substance use disorder treatment program may earn any days of credit under division (A) of this section for successful completion of a second program or activity. The determination of whether a person confined in a state correctional institution may earn one day of credit or five days of credit under division (A) of this section for each completed month during which the person productively participates in a program or activity specified under that division shall be made in accordance with the following:

(1) The offender may earn one day of credit under division (A) of this section, except as provided in division (C) of this section, if the most serious offense for which the offender is confined is any of the following that is a felony of the first or second degree:

(a) A violation of division (A) of section 2903.04 or of section 2903.03, 2903.11, 2903.15, 2905.01, 2907.24, 2907.25, 2909.02, 2909.09, 2909.10, 2909.101, 2909.26, 2909.27, 2909.29, 2911.01, 2911.02, 2911.11, 2911.12, 2919.13, 2919.151, 2919.22, 2921.34, 2923.01, 2923.131, 2923.162, 2923.32, 2925.24, or 2927.24 of the Revised Code;

(b) A conspiracy or attempt to commit, or complicity in committing, any other offense for which the maximum penalty is imprisonment for life or any offense listed in division (D)(1)(a) of this section.

(2) The offender may earn one day of credit under division (A) of this section, except as provided in division (C) of this section, if the offender is serving a stated prison term that includes a prison term imposed for a sexually oriented offense that the offender committed prior to September 30, 2011.

(3) The offender may earn one day of credit under division (A) of this section, except as provided in division (C) of this section, if the offender is serving a stated prison term that includes a prison term imposed for a felony other than carrying a concealed weapon an essential element of which is any conduct or failure to act expressly involving any deadly weapon or dangerous ordnance.

(4) Except as provided in division (C) of this section, if the most serious offense for which the offender is confined is a felony of the first or second degree and divisions (D)(1), (2), and (3) of this section do not apply to the offender, the offender may earn one day of credit under division (A) of this section if the offender committed that offense prior to September 30, 2011, and the offender may earn five days of credit under division (A) of this section if the offender committed that offense on or after September 30, 2011.

(5) Except as provided in division (C) of this section, if the most serious offense for which the offender is confined is a felony of the third, fourth, or fifth degree or an unclassified felony and neither division (D)(2) nor (3) of this section applies to the offender, the offender may earn one day of credit under division (A) of this section if the offender committed that offense prior to September 30, 2011, and the offender may earn five days of credit under division (A) of this section if the offender committed that offense on or after September 30, 2011.

(E) The department annually shall seek and consider the written feedback of the Ohio prosecuting attorneys association, the Ohio judicial conference, the Ohio public defender, the Ohio association of criminal defense lawyers, and other organizations and associations that have an interest in the operation of the corrections system and the earned credits program under this section as part of its evaluation of the program and in determining whether to modify the program.

(F) As used in this section:

(1) "Sexually oriented offense" has the same meaning as in section 2950.01 of the Revised Code.

(2) "Substance use disorder treatment program" means the substance use disorder treatment program established by the department of rehabilitation and correction under section 5120.035 of the Revised Code.

**Sec. 2969.14.** (A) If a separate account has been maintained in the name of an offender in the crime victims recovery fund and if there is no further requirement to pay into the fund money, or the monetary value of property, pursuant to section 2929.32 of the Revised Code, unless otherwise ordered by a court of record in which a judgment has been rendered against the offender or the representatives of the offender, the clerk of the court of claims shall pay the money remaining in the separate account in accordance with division (B) of this section, if all of the following apply:

(1) The applicable period of time that governs the making of payments from the separate account, as set forth in division (C)(1) of section 2969.12 of the Revised Code, has elapsed.

(2) None of the civil actions against the offender or the representatives of the offender of which the clerk of the court of claims has been notified pursuant to division (B)(1) of section 2969.12 of the Revised Code is pending.

(3) All judgments for which payment was requested pursuant to division (B)(3) of section 2969.12 of the Revised Code have been paid.

(B) If the clerk of the court of claims is required by division (A) of this section to pay the money remaining in the separate account established in the name of an offender in accordance with

this division, the clerk shall pay the money as follows:

(1) If the offender was confined for a felony in a facility operated by a county or a municipal corporation, the clerk shall pay the money to the treasurer of the county or of the municipal corporation that operated the facility, in accordance with division (C)(1) or (2) of section 2929.18 of the Revised Code, to cover the costs of the confinement. If more than one county or municipal corporation operated a facility in which the offender was confined, the clerk shall equitably apportion the money among each of those counties and municipal corporations. If any money remains in the separate account after the payment of the costs of the confinement pursuant to this division, the clerk shall pay the remaining money in accordance with divisions (B)(2) and (4) of this section.

(2) If the offender was sentenced for a felony to any community control sanction other than a sanction described in division (B)(1) of this section, after payment of any costs required to be paid under division (B)(1) of this section, the clerk shall pay the money to the treasurer of the county or of the municipal corporation that incurred costs pursuant to the sanction, in accordance with division (C)(1) or (2) of section 2929.18 of the Revised Code, to cover the costs so incurred. If more than one county or municipal corporation incurred costs pursuant to the sanction, the clerk shall equitably apportion the money among each of those counties and municipal corporations. If any money remains in the separate account after the payment of the costs of the sanction pursuant to this division, the clerk shall pay the remaining money in accordance with division (B)(4) of this section.

(3) If the offender was imprisoned or incarcerated for a misdemeanor, to the treasurer of the political subdivision that operates the facility in which the offender was imprisoned or incarcerated, to cover the costs of the imprisonment or incarceration. If more than one political subdivision operated a facility in which the offender was confined, the clerk shall equitably apportion the money among each of those political subdivisions. If any money remains in the separate account after the payment of the costs of the imprisonment or incarceration under this division, the clerk shall pay the remaining money in accordance with division (B)(4) of this section.

(4) If any money remains in the separate account after payment of any costs required to be paid under division (B)(1), (2), or (3) of this section, or if no provision of division (B)(1), (2), or (3) of this section applies, the clerk shall distribute the amount of the money remaining in the separate account as otherwise provided by law for the distribution of money paid in satisfaction of a fine, as if that amount was a fine paid by the offender.

**Sec. 2981.12.** (A) Unclaimed or forfeited property in the custody of a law enforcement agency, other than property described in division (A)(2) of section 2981.11 of the Revised Code, shall be disposed of by order of any court of record that has territorial jurisdiction over the political subdivision that employs the law enforcement agency, as follows:

(1) Drugs shall be disposed of pursuant to section 3719.11 of the Revised Code or placed in the custody of the secretary of the treasury of the United States for disposal or use for medical or scientific purposes under applicable federal law.

(2) Firearms and dangerous ordnance suitable for police work may be given to a law enforcement agency for that purpose. Firearms suitable for sporting use or as museum pieces or collectors' items may be sold at public auction pursuant to division (B) of this section. The agency may sell other firearms and dangerous ordnance to a federally licensed firearms dealer in a manner that the court considers proper. The agency shall destroy any firearms or dangerous ordnance not

given to a law enforcement agency or sold or shall send them to the bureau of criminal identification and investigation for destruction by the bureau.

(3) Obscene materials shall be destroyed.

(4) Beer, intoxicating liquor, or alcohol seized from a person who does not hold a permit issued under Chapters 4301. and 4303. of the Revised Code or otherwise forfeited to the state for an offense under section 4301.45 or 4301.53 of the Revised Code shall be sold by the division of liquor control if the division determines that it is fit for sale or shall be placed in the custody of the investigations unit in the department of public safety and be used for training relating to law enforcement activities. The department, with the assistance of the division of liquor control, shall adopt rules in accordance with Chapter 119. of the Revised Code to provide for the distribution to state or local law enforcement agencies upon their request. If any tax imposed under Title XLIII of the Revised Code has not been paid in relation to the beer, intoxicating liquor, or alcohol, any moneys acquired from the sale shall first be used to pay the tax. All other money collected under this division shall be paid into the state treasury. Any beer, intoxicating liquor, or alcohol that the division determines to be unfit for sale shall be destroyed.

(5) Money received by an inmate of a correctional institution from an unauthorized source or in an unauthorized manner shall be returned to the sender, if known, or deposited in the inmates' industrial and entertainment fund of the institution if the sender is not known.

(6)(a) Any mobile instrumentality forfeited under this chapter may be given to the law enforcement agency that initially seized the mobile instrumentality for use in performing its duties, if the agency wants the mobile instrumentality. The agency shall take the mobile instrumentality subject to any security interest or lien on the mobile instrumentality.

(b) Vehicles and vehicle parts forfeited under sections 4549.61 to 4549.63 of the Revised Code may be given to a law enforcement agency for use in performing its duties. Those parts may be incorporated into any other official vehicle. Parts that do not bear vehicle identification numbers or derivatives of them may be sold or disposed of as provided by rules of the director of public safety. Parts from which a vehicle identification number or derivative of it has been removed, defaced, covered, altered, or destroyed and that are not suitable for police work or incorporation into an official vehicle shall be destroyed and sold as junk or scrap.

(7) Computers, computer networks, computer systems, and computer software suitable for police work may be given to a law enforcement agency for that purpose or disposed of under division (B) of this section.

(8) Money seized in connection with a violation of section 2905.32, 2907.21, or 2907.22 of the Revised Code shall be deposited in the victims of human trafficking fund created by section 5101.87 of the Revised Code.

(B) Unclaimed or forfeited property that is not described in division (A) of this section or division (A)(2) of section 2981.11 of the Revised Code, with court approval, may be used by the law enforcement agency in possession of it. If it is not used by the agency, it may be sold without appraisal at a public auction to the highest bidder for cash or disposed of in another manner that the court considers proper.

(C) Except as provided in divisions (A) and (F) of this section and after compliance with division (D) of this section when applicable, any moneys acquired from the sale of property disposed

of pursuant to this section shall be placed in the general revenue fund of the state, or the general fund of the county, the township, or the municipal corporation of which the law enforcement agency involved is an agency.

(D) If the property was in the possession of the law enforcement agency in relation to a delinquent child proceeding in a juvenile court, ten per cent of any moneys acquired from the sale of property disposed of under this section shall be applied to one or more community addiction services providers, as defined in section 5119.01 of the Revised Code. A juvenile court shall not specify a services provider, except as provided in this division, unless the services provider is in the same county as the court or in a contiguous county. If no services provider is located in any of those counties, the juvenile court may specify a services provider anywhere in Ohio. The remaining ninety per cent of the proceeds or cash shall be applied as provided in division (C) of this section.

Each services provider that receives in any calendar year forfeited money under this division shall file an annual report for that year with the attorney general and with the court of common pleas and board of county commissioners of the county in which the services provider is located and of any other county from which the services provider received forfeited money. The services provider shall file the report on or before the first day of March in the calendar year following the calendar year in which the services provider received the money. The report shall include statistics on the number of persons the services provider served, identify the types of treatment services it provided to them, and include a specific accounting of the purposes for which it used the money so received. No information contained in the report shall identify, or enable a person to determine the identity of, any person served by the services provider.

(E) Each community addiction services provider that receives in any calendar year money under this section or under section 2981.13 of the Revised Code as the result of a juvenile forfeiture order shall file an annual report for that calendar year with the attorney general and with the court of common pleas and board of county commissioners of the county in which the services provider is located and of any other county from which the services provider received the money. The services provider shall file the report on or before the first day of March in the calendar year following the year in which the services provider received the money. The report shall include statistics on the number of persons served with the money, identify the types of treatment services provided, and specifically account for how the money was used. No information in the report shall identify or enable a person to determine the identity of anyone served by the services provider.

As used in this division, "juvenile-related forfeiture order" means any forfeiture order issued by a juvenile court under section 2981.04 or 2981.05 of the Revised Code and any disposal of property ordered by a court under section 2981.11 of the Revised Code regarding property that was in the possession of a law enforcement agency in relation to a delinquent child proceeding in a juvenile court.

(F) Each board of county commissioners that recognizes a citizens' reward program under section 9.92 of the Revised Code shall notify each law enforcement agency of that county and of a township or municipal corporation wholly located in that county of the recognition by filing a copy of its resolution conferring that recognition with each of those agencies. When the board recognizes a citizens' reward program and the county includes a part, but not all, of the territory of a municipal corporation, the board shall so notify the law enforcement agency of that municipal corporation of

the recognition of the citizens' reward program only if the county contains the highest percentage of the municipal corporation's population.

Upon being so notified, each law enforcement agency shall pay twenty-five per cent of any forfeited proceeds or cash derived from each sale of property disposed of pursuant to this section to the citizens' reward program for use exclusively to pay rewards. No part of the funds may be used to pay expenses associated with the program. If a citizens' reward program that operates in more than one county or in another state in addition to this state receives funds under this section, the funds shall be used to pay rewards only for tips and information to law enforcement agencies concerning offenses committed in the county from which the funds were received.

Receiving funds under this section or section 2981.11 of the Revised Code does not make the citizens' reward program a governmental unit or public office for purposes of section 149.43 of the Revised Code.

(G) Any property forfeited under this chapter shall not be used to pay any fine imposed upon a person who is convicted of or pleads guilty to an underlying criminal offense or a different offense arising out of the same facts and circumstances.

(H) Any moneys acquired from the sale of personal effects, tools, or other property seized because the personal effects, tools, or other property were used in the commission of a violation of section 2905.32, 2907.21, or 2907.22 of the Revised Code or derived from the proceeds of the commission of a violation of section 2905.32, 2907.21, or 2907.22 of the Revised Code and disposed of pursuant to this section shall be placed in the victims of human trafficking fund created by section 5101.87 of the Revised Code.

**Sec. 2981.13.** (A) Except as otherwise provided in this section, property ordered forfeited as contraband, proceeds, or an instrumentality pursuant to this chapter shall be disposed of, used, or sold pursuant to section 2981.12 of the Revised Code. If the property is to be sold under that section, the prosecutor shall cause notice of the proposed sale to be given in accordance with law.

(B) If the contraband or instrumentality forfeited under this chapter is sold, any moneys acquired from a sale and any proceeds forfeited under this chapter shall be applied in the following order:

(1) First, to pay costs incurred in the seizure, storage, maintenance, security, and sale of the property and in the forfeiture proceeding;

(2) Second, in a criminal forfeiture case, to satisfy any restitution ordered to the victim of the offense or, in a civil forfeiture case, to satisfy any recovery ordered for the person harmed, unless paid from other assets;

(3) Third, to pay the balance due on any security interest preserved under this chapter;

(4) Fourth, apply the remaining amounts as follows:

(a) If the forfeiture was ordered by a juvenile court, ten per cent to one or more community addiction services providers as specified in division (D) of section 2981.12 of the Revised Code;

(b) If the forfeiture was ordered in a juvenile court, ninety per cent, and if the forfeiture was ordered in a court other than a juvenile court, one hundred per cent to the law enforcement trust fund of the prosecutor and to the following fund supporting the law enforcement agency that substantially conducted the investigation:

(i) The law enforcement trust fund of the county sheriff, municipal corporation, township, or



park district created under section 511.18 or 1545.01 of the Revised Code;

(ii) The state highway patrol contraband, forfeiture, and other fund;

(iii) The department of public safety investigative unit contraband, forfeiture, and other fund;

(iv) The department of taxation enforcement fund;

(v) The board of pharmacy drug law enforcement fund created by division (B)(1) of section 4729.65 of the Revised Code;

(vi) The medicaid fraud investigation and prosecution fund;

(vii) The bureau of criminal identification and investigation asset forfeiture and cost reimbursement fund created by section 109.521 of the Revised Code;

(viii) The casino control commission enforcement fund created by section 3772.36 of the Revised Code;

(ix) The auditor of state investigation and forfeiture trust fund established under section 117.54 of the Revised Code;

(x) The treasurer of state for deposit into the peace officer training commission fund if any other state law enforcement agency substantially conducted the investigation.

In the case of property forfeited for medicaid fraud, any remaining amount shall be used by the attorney general to investigate and prosecute medicaid fraud offenses.

If the prosecutor declines to accept any of the remaining amounts, the amounts shall be applied to the fund of the agency that substantially conducted the investigation.

(c) If more than one law enforcement agency is substantially involved in the seizure of property forfeited under this chapter, the court ordering the forfeiture shall equitably divide the amounts, after calculating any distribution to the law enforcement trust fund of the prosecutor pursuant to division (B)(4) of this section, among the entities that the court determines were substantially involved in the seizure.

(C)(1) A law enforcement trust fund shall be established by the prosecutor of each county who intends to receive any remaining amounts pursuant to this section, by the sheriff of each county, by the legislative authority of each municipal corporation, by the board of township trustees of each township that has a township police department, township or joint police district police force, or office of the constable, and by the board of park commissioners of each park district created pursuant to section 511.18 or 1545.01 of the Revised Code that has a park district police force or law enforcement department, for the purposes of this section.

There is hereby created in the state treasury the state highway patrol contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the medicaid fraud investigation and prosecution fund, the department of taxation enforcement fund, and the peace officer training commission fund, for the purposes of this section.

Amounts distributed to any municipal corporation, township, or park district law enforcement trust fund shall be allocated from the fund by the legislative authority only to the police department of the municipal corporation, by the board of township trustees only to the township police department, township police district police force, or office of the constable, by the joint police district board only to the joint police district, and by the board of park commissioners only to the park district police force or law enforcement department.

(2)(a) No amounts shall be allocated to a fund under this section or used by an agency unless

the agency has adopted a written internal control policy that addresses the use of moneys received from the appropriate fund. The appropriate fund shall be expended only in accordance with that policy and, subject to the requirements specified in this section, only for the following purposes:

- (i) To pay the costs of protracted or complex investigations or prosecutions;
- (ii) To provide reasonable technical training or expertise;
- (iii) To provide matching funds to obtain federal grants to aid law enforcement, in the support of DARE programs or other programs designed to educate adults or children with respect to the dangers associated with the use of drugs of abuse;
- (iv) To pay the costs of emergency action taken under section 3745.13 of the Revised Code relative to the operation of an illegal methamphetamine laboratory if the forfeited property or money involved was that of a person responsible for the operation of the laboratory;
- (v) For other law enforcement purposes that the superintendent of the state highway patrol, department of public safety, attorney general, auditor of state, prosecutor, county sheriff, legislative authority, department of taxation, Ohio casino control commission, board of township trustees, or board of park commissioners determines to be appropriate.

(b) The board of pharmacy drug law enforcement fund shall be expended only in accordance with the written internal control policy so adopted by the board and only in accordance with section 4729.65 of the Revised Code, except that it also may be expended to pay the costs of emergency action taken under section 3745.13 of the Revised Code relative to the operation of an illegal methamphetamine laboratory if the forfeited property or money involved was that of a person responsible for the operation of the laboratory.

(c) A fund listed in division (B)(4)(b) of this section, other than the Medicaid fraud investigation and prosecution fund, shall not be used to meet the operating costs of the agency, office, or political subdivision that are unrelated to law enforcement.

(d) Forfeited moneys that are paid into the state treasury to be deposited into the peace officer training commission fund shall be used by the commission only to pay the costs of peace officer training.

(3) Any of the following offices or agencies that receive amounts under this section during any calendar year shall file a report with the specified entity, not later than the thirty-first day of January of the next calendar year, verifying that the moneys were expended only for the purposes authorized by this section or other relevant statute and specifying the amounts expended for each authorized purpose:

- (a) Any sheriff or prosecutor shall file the report with the county auditor.
- (b) Any municipal corporation police department shall file the report with the legislative authority of the municipal corporation.
- (c) Any township police department, township or joint police district police force, or office of the constable shall file the report with the board of township trustees of the township.
- (d) Any park district police force or law enforcement department shall file the report with the board of park commissioners of the park district.
- (e) The superintendent of the state highway patrol, the auditor of state, and the tax commissioner shall file the report with the attorney general.
- (f) The executive director of the state board of pharmacy shall file the report with the attorney

general, verifying that cash and forfeited proceeds paid into the board of pharmacy drug law enforcement fund were used only in accordance with section 4729.65 of the Revised Code.

(g) The peace officer training commission shall file a report with the attorney general, verifying that cash and forfeited proceeds paid into the peace officer training commission fund pursuant to this section during the prior calendar year were used by the commission during the prior calendar year only to pay the costs of peace officer training.

(h) The executive director of the Ohio casino control commission shall file the report with the attorney general, verifying that cash and forfeited proceeds paid into the casino control commission enforcement fund were used only in accordance with section 3772.36 of the Revised Code.

(D) The written internal control policy of a county sheriff, prosecutor, municipal corporation police department, township police department, township or joint police district police force, office of the constable, or park district police force or law enforcement department shall provide that at least ten per cent of the first one hundred thousand dollars of amounts deposited during each calendar year in the agency's law enforcement trust fund under this section, and at least twenty per cent of the amounts exceeding one hundred thousand dollars that are so deposited, shall be used in connection with community preventive education programs. The manner of use shall be determined by the sheriff, prosecutor, department, police force, or office of the constable after receiving and considering advice on appropriate community preventive education programs from the county's board of alcohol, drug addiction, and mental health services, from the county's alcohol and drug addiction services board, or through appropriate community dialogue.

The financial records kept under the internal control policy shall specify the amount deposited during each calendar year in the portion of that amount that was used pursuant to this division, and the programs in connection with which the portion of that amount was so used.

As used in this division, "community preventive education programs" include, but are not limited to, DARE programs and other programs designed to educate adults or children with respect to the dangers associated with using drugs of abuse.

(E) Upon the sale, under this section or section 2981.12 of the Revised Code, of any property that is required by law to be titled or registered, the state shall issue an appropriate certificate of title or registration to the purchaser. If the state is vested with title and elects to retain property that is required to be titled or registered under law, the state shall issue an appropriate certificate of title or registration.

(F) Any failure of a law enforcement officer or agency, prosecutor, court, or the attorney general to comply with this section in relation to any property seized does not affect the validity of the seizure and shall not be considered to be the basis for suppressing any evidence resulting from the seizure, provided the seizure itself was lawful.

**Sec. 3105.171.** (A) As used in this section:

(1) "Distributive award" means any payment or payments, in real or personal property, that are payable in a lump sum or over time, in fixed amounts, that are made from separate property or income, and that are not made from marital property and do not constitute payments of spousal support, as defined in section 3105.18 of the Revised Code.

(2) "During the marriage" means whichever of the following is applicable:

(a) Except as provided in division (A)(2)(b) of this section, the period of time from the date

of the marriage through the date of the final hearing in an action for divorce or in an action for legal separation;

(b) If the court determines that the use of either or both of the dates specified in division (A)(2)(a) of this section would be inequitable, the court may select dates that it considers equitable in determining marital property. If the court selects dates that it considers equitable in determining marital property, "during the marriage" means the period of time between those dates selected and specified by the court.

(3)(a) "Marital property" means, subject to division (A)(3)(b) of this section, all of the following:

(i) All real and personal property that currently is owned by either or both of the spouses, including, but not limited to, the retirement benefits of the spouses, and that was acquired by either or both of the spouses during the marriage;

(ii) All interest that either or both of the spouses currently has in any real or personal property, including, but not limited to, the retirement benefits of the spouses, and that was acquired by either or both of the spouses during the marriage;

(iii) Except as otherwise provided in this section, all income and appreciation on separate property, due to the labor, monetary, or in-kind contribution of either or both of the spouses that occurred during the marriage;

(iv) A participant account, as defined in section 148.01 of the Revised Code, of either of the spouses, to the extent of the following: the moneys that have been deferred by a continuing member or participating employee, as defined in that section, and that have been transmitted to the Ohio public employees deferred compensation board during the marriage and any income that is derived from the investment of those moneys during the marriage; the moneys that have been deferred by an officer or employee of a municipal corporation and that have been transmitted to the governing board, administrator, depository, or trustee of the deferred compensation program of the municipal corporation during the marriage and any income that is derived from the investment of those moneys during the marriage; or the moneys that have been deferred by an officer or employee of a government unit, as defined in section 148.06 of the Revised Code, and that have been transmitted to the governing board, as defined in that section, during the marriage and any income that is derived from the investment of those moneys during the marriage.

(b) "Marital property" does not include any separate property.

(4) "Passive income" means income acquired other than as a result of the labor, monetary, or in-kind contribution of either spouse.

(5) "Personal property" includes both tangible and intangible personal property.

(6)(a) "Separate property" means all real and personal property and any interest in real or personal property that is found by the court to be any of the following:

(i) An inheritance by one spouse by bequest, devise, or descent during the course of the marriage;

(ii) Any real or personal property or interest in real or personal property that was acquired by one spouse prior to the date of the marriage;

(iii) Passive income and appreciation acquired from separate property by one spouse during the marriage;

(iv) Any real or personal property or interest in real or personal property acquired by one spouse after a decree of legal separation issued under section 3105.17 of the Revised Code;

(v) Any real or personal property or interest in real or personal property that is excluded by a valid antenuptial agreement;

(vi) Compensation to a spouse for the spouse's personal injury, except for loss of marital earnings and compensation for expenses paid from marital assets;

(vii) Any gift of any real or personal property or of an interest in real or personal property that is made after the date of the marriage and that is proven by clear and convincing evidence to have been given to only one spouse.

(b) The commingling of separate property with other property of any type does not destroy the identity of the separate property as separate property, except when the separate property is not traceable.

(B) In divorce proceedings, the court shall, and in legal separation proceedings upon the request of either spouse, the court may, determine what constitutes marital property and what constitutes separate property. In either case, upon making such a determination, the court shall divide the marital and separate property equitably between the spouses, in accordance with this section. For purposes of this section, the court has jurisdiction over all property, excluding the social security benefits of a spouse other than as set forth in division (F)(9) of this section, in which one or both spouses have an interest.

(C)(1) Except as provided in this division or division (E) of this section, the division of marital property shall be equal. If an equal division of marital property would be inequitable, the court shall not divide the marital property equally but instead shall divide it between the spouses in the manner the court determines equitable. In making a division of marital property, the court shall consider all relevant factors, including those set forth in division (F) of this section.

(2) Each spouse shall be considered to have contributed equally to the production and acquisition of marital property.

(3) The court shall provide for an equitable division of marital property under this section prior to making any award of spousal support to either spouse under section 3105.18 of the Revised Code and without regard to any spousal support so awarded.

(4) If the marital property includes a participant account, as defined in section 148.01 of the Revised Code, the court shall not order the division or disbursement of the moneys and income described in division (A)(3)(a)(iv) of this section to occur in a manner that is inconsistent with the law, rules, or plan governing the deferred compensation program involved or prior to the time that the spouse in whose name the participant account is maintained commences receipt of the moneys and income credited to the account in accordance with that law, rules, and plan.

(D) Except as otherwise provided in division (E) of this section or by another provision of this section, the court shall disburse a spouse's separate property to that spouse. If a court does not disburse a spouse's separate property to that spouse, the court shall make written findings of fact that explain the factors that it considered in making its determination that the spouse's separate property should not be disbursed to that spouse.

(E)(1) The court may make a distributive award to facilitate, effectuate, or supplement a division of marital property. The court may require any distributive award to be secured by a lien on

the payor's specific marital property or separate property.

(2) The court may make a distributive award in lieu of a division of marital property in order to achieve equity between the spouses, if the court determines that a division of the marital property in kind or in money would be impractical or burdensome.

(3) The court shall require each spouse to disclose in a full and complete manner all marital property, separate property, and other assets, debts, income, and expenses of the spouse.

(4) If a spouse has engaged in financial misconduct, including, but not limited to, the dissipation, destruction, concealment, nondisclosure, or fraudulent disposition of assets, the court may compensate the offended spouse with a distributive award or with a greater award of marital property.

(5) If a spouse has substantially and willfully failed to disclose marital property, separate property, or other assets, debts, income, or expenses as required under division (E)(3) of this section, the court may compensate the offended spouse with a distributive award or with a greater award of marital property not to exceed three times the value of the marital property, separate property, or other assets, debts, income, or expenses that are not disclosed by the other spouse.

(F) In making a division of marital property and in determining whether to make and the amount of any distributive award under this section, the court shall consider all of the following factors:

- (1) The duration of the marriage;
- (2) The assets and liabilities of the spouses;
- (3) The desirability of awarding the family home, or the right to reside in the family home for reasonable periods of time, to the spouse with custody of the children of the marriage;
- (4) The liquidity of the property to be distributed;
- (5) The economic desirability of retaining intact an asset or an interest in an asset;
- (6) The tax consequences of the property division upon the respective awards to be made to each spouse;
- (7) The costs of sale, if it is necessary that an asset be sold to effectuate an equitable distribution of property;
- (8) Any division or disbursement of property made in a separation agreement that was voluntarily entered into by the spouses;
- (9) Any retirement benefits of the spouses, excluding the social security benefits of a spouse except as may be relevant for purposes of dividing a public pension;
- (10) Any other factor that the court expressly finds to be relevant and equitable.

(G) In any order for the division or disbursement of property or a distributive award made pursuant to this section, the court shall make written findings of fact that support the determination that the marital property has been equitably divided and shall specify the dates it used in determining the meaning of "during the marriage."

(H) Except as otherwise provided in this section, the holding of title to property by one spouse individually or by both spouses in a form of co-ownership does not determine whether the property is marital property or separate property.

(I) A division or disbursement of property or a distributive award made under this section is not subject to future modification by the court except upon the express written consent or agreement

to the modification by both spouses.

(J) The court may issue any orders under this section that it determines equitable, including, but not limited to, either of the following types of orders:

(1) An order granting a spouse the right to use the marital dwelling or any other marital property or separate property for any reasonable period of time;

(2) An order requiring the sale or encumbrancing of any real or personal property, with the proceeds from the sale and the funds from any loan secured by the encumbrance to be applied as determined by the court.

**Sec. 3109.13.** As used in sections 3109.13 to 3109.179 of the Revised Code:

(A) "Child abuse and child neglect prevention programs" means programs that use primary and secondary prevention strategies that are conducted at the local level and activities and projects of statewide significance designed to strengthen families and prevent child abuse and child neglect.

(B) "Primary prevention strategies" are activities and services provided to the public designed to prevent or reduce the prevalence of child abuse and child neglect before signs of abuse or neglect can be observed.

(C) "Secondary prevention strategies" are activities and services that are provided to a specific population identified as having risk factors for child abuse and child neglect and are designed to intervene at the earliest warning signs of child abuse or child neglect, or whenever a child can be identified as being at risk of abuse or neglect.

**Sec. 3109.14.** (A) As used in this section, "birth record" and "certification of birth" have the meanings given in section 3705.01 of the Revised Code.

(B)(1) The director of health, a person authorized by the director, a local commissioner of health, or a local registrar of vital statistics shall charge and collect a fee for each certified copy of a birth record, for each certification of birth, and for each copy of a death record. The fee shall be three dollars. The fee is in addition to the fee imposed by section 3705.24 or any other section of the Revised Code. A local commissioner of health or a local registrar of vital statistics may retain an amount of each additional fee collected, not to exceed three per cent of the amount of the additional fee, to be used for costs directly related to the collection of the fee and the forwarding of the fee to the department of health.

The additional fees collected by the director of health or a person authorized by the director and the additional fees collected but not retained by a local commissioner of health or a local registrar of vital statistics shall be forwarded to the department of health not later than thirty days following the end of each quarter. Not later than two days after the fees are forwarded to the department each quarter, the department shall pay the collected fees to the treasurer of state in accordance with rules adopted by the treasurer of state under section 113.08 of the Revised Code.

(2) Upon the filing for a divorce decree under section 3105.10 or a decree of dissolution under section 3105.65 of the Revised Code, a court of common pleas shall charge and collect a fee. The fee shall be eleven dollars. The fee is in addition to any other court costs or fees. The county clerk of courts may retain an amount of each additional fee collected, not to exceed three per cent of the amount of the additional fee, to be used for costs directly related to the collection of the fee and the forwarding of the fee to the treasurer of state. The additional fees collected, but not retained, under division (B)(2) of this section shall be forwarded to the treasurer of state not later than twenty

days following the end of each month.

(C) The treasurer of state shall deposit the fees paid or forwarded under this section in the state treasury to the credit of the children's trust fund, which is hereby created. A person or government entity that fails to forward the fees in a timely manner, as determined by the treasurer of state, shall send to the treasurer of state, in addition to the fees, a penalty equal to ten per cent of the fees.

The treasurer of state shall invest the moneys in the fund, and all earnings resulting from investment of the fund shall be credited to the fund, except that actual administrative costs incurred by the treasurer of state in administering the fund may be deducted from the earnings resulting from investments. The amount that may be deducted shall not exceed three per cent of the total amount of fees credited to the fund in each fiscal year, except that the children's trust fund board may approve an amount for actual administrative costs exceeding three per cent but not exceeding four per cent of such amount. The balance of the investment earnings shall be credited to the fund. Moneys credited to the fund shall be used only for the purposes described in sections 3109.13 to 3109.179 of the Revised Code.

**Sec. 3109.16.** (A) The children's trust fund board, upon the recommendation of the director of job and family services, shall approve the employment of an executive director who will administer the programs of the board.

(B) The department of job and family services shall provide budgetary, procurement, accounting, and other related management functions for the board and may adopt rules in accordance with Chapter 119. of the Revised Code for these purposes. An amount not to exceed three per cent of the total amount of fees deposited in the children's trust fund in each fiscal year may be used for costs directly related to these administrative functions of the department. Each fiscal year, the board shall approve a budget for administrative expenditures for the next fiscal year.

(C) The board may request that the department adopt rules the board considers necessary for the purpose of carrying out the board's responsibilities under this section, and the department may adopt those rules. The department may, after consultation with the board and the executive director, adopt any other rules to assist the board in carrying out its responsibilities under this section. In either case, the rules shall be adopted under Chapter 119. of the Revised Code.

(D) The board shall meet at least quarterly at the call of the chairperson to conduct its official business. All business transactions of the board shall be conducted in public meetings. Eight members of the board constitute a quorum. A majority of the quorum is required to make all decisions of the board.

(E) With respect to funding, all of the following apply:

(1) The board may apply for and accept federal and other funds for the purpose of funding child abuse and child neglect prevention programs.

(2) The board may solicit and accept gifts, money, and other donations from any public or private source, including individuals, philanthropic foundations or organizations, corporations, or corporation endowments.

(3) The board may develop private-public partnerships to support the mission of the children's trust fund.

(4) The acceptance and use of federal and other funds shall not entail any commitment or



pledge of state funds, nor obligate the general assembly to continue the programs or activities for which the federal and other funds are made available.

(5) All funds received in the manner described in this section shall be transmitted to the treasurer of state, who shall credit them to the children's trust fund created in section 3109.14 of the Revised Code.

**Sec. 3109.17.** (A) The children's trust fund board shall establish a strategic plan for child abuse and child neglect prevention. The plan shall be transmitted to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives and shall be made available to the general public.

(B) In developing and carrying out the strategic plan, the children's trust fund board shall, in accordance with rules adopted by the department pursuant to Chapter 119. of the Revised Code, do all of the following:

(1) Ensure that an opportunity exists for assistance through child abuse and child neglect prevention programs to persons throughout the state of various social and economic backgrounds;

(2) Allocate funds to entities for the purpose of funding child abuse and child neglect prevention programs that have statewide significance and that have been approved by the children's trust fund board;

(3) Provide for the monitoring of expenditures from the children's trust fund and of programs that receive money from the children's trust fund;

(4) Establish reporting requirements for both of the following:

(a) Regional child abuse and child neglect prevention councils, including deadlines for the submission of the progress and annual reports required under section 3107.172 of the Revised Code;

(b) Children's advocacy centers, including deadlines for the submission of reports required under section 3107.178 of the Revised Code.

(5) Collaborate with appropriate persons and government entities and facilitate the exchange of information among those persons and entities for the purpose of child abuse and child neglect prevention;

(6) Provide for the education of the public and professionals for the purpose of child abuse and child neglect prevention.

(C) The children's trust fund board shall prepare a report for each fiscal biennium that delineates the expenditure of money from the children's trust fund. On or before January 1, 2002, and on or before the first day of January of a year that follows the end of a fiscal biennium of this state, the board shall file a copy of the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives.

(D) The children's trust fund board shall develop a list of all state and federal sources of funding that might be available for establishing, operating, or establishing and operating a children's advocacy center under sections 2151.425 to 2151.428 of the Revised Code. The board periodically shall update the list as necessary. The board shall maintain, or provide for the maintenance of, the list at an appropriate location. That location may be the offices of the department of job and family services. The board shall provide the list upon request to any children's advocacy center or to any person or entity identified in section 2151.426 of the Revised Code as a person or entity that may participate in the establishment of a children's advocacy center.

- Sec. 3109.171.
- Sec. 3109.172.
- Sec. 3109.173.
- Sec. 3109.174.
- Sec. 3109.175.
- Sec. 3109.176.
- Sec. 3109.177.
- Sec. 3109.178.
- Sec. 3109.179.
- Sec. 3115.101.
- Sec. 3115.102.
- Sec. 3115.103.
- Sec. 3115.104.
- Sec. 3115.105.
- Sec. 3115.201.
- Sec. 3115.202.
- Sec. 3115.203.
- Sec. 3115.204.
- Sec. 3115.205.
- Sec. 3115.206.
- Sec. 3115.207.
- Sec. 3115.208.
- Sec. 3115.209.
- Sec. 3115.210.
- Sec. 3115.211.
- Sec. 3115.301.
- Sec. 3115.302.
- Sec. 3115.303.
- Sec. 3115.304.
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Sec. 3115.318.

Sec. 3115.319.

Sec. 3115.401.

Sec. 3115.402.

Sec. 3115.501.

Sec. 3115.502.

Sec. 3115.503.

Sec. 3115.504.

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Sec. 3115.506.

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Sec. 3115.616.

Sec. 3115.701.

Sec. 3115.702.

Sec. 3115.703.

Sec. 3115.704.

Sec. 3115.705.

Sec. 3115.706.

Sec. 3115.707.

Sec. 3115.708.

Sec. 3115.709.

Sec. 3115.710.

Sec. 3115.711.

Sec. 3115.712.

Sec. 3115.713.

Sec. 3115.801.

Sec. 3115.802.

**Sec. 3115.901.****Sec. 3115.902.****Sec. 3115.903.**

**Sec. 3119.27.** (A) A court that issues or modifies a court support order, or an administrative agency that issues or modifies an administrative child support order, shall impose on the obligor under the support order a processing charge in the amount of two per cent of the support payment to be collected under a support order. No court or agency may call the charge a poundage fee.

(B) In each child support case that is a Title IV-D case, the department of job and family services shall annually claim twenty-five dollars from the processing charge described in division (A) of this section for federal reporting purposes if the obligee has never received assistance under Title IV-A and the department has collected at least five hundred dollars of child support for the obligee. The director of job and family services shall adopt rules under Chapter 119. of the Revised Code to implement this division, and the department shall implement this division not later than March 31, 2008.

(C) As used in this section:

(1) "Annual" means the period as defined in regulations issued by the United States secretary of health and human services to implement the Deficit Reduction Act of 2005 (P.L. 109-171).

(2) "Title IV-A" has the same meaning as in section 5107.02 of the Revised Code.

(3) "Title IV-D case" has the same meaning as in section 3125.01 of the Revised Code.

**Sec. 3121.03.** If a court or child support enforcement agency that issued or modified a support order, or the agency administering the support order, is required by the Revised Code to issue one or more withholding or deduction notices described in this section or other orders described in this section, the court or agency shall issue one or more of the following types of notices or orders, as appropriate, for payment of the support and also, if required by the Revised Code or the court, to pay any arrearages:

(A)(1) If the court or the child support enforcement agency determines that the obligor is receiving income from a payor, the court or agency shall require the payor to do all of the following:

(a) Withhold from the obligor's income a specified amount for support in satisfaction of the support order and begin the withholding no later than fourteen business days following the date the notice is mailed or transmitted to the payor under section 3121.035, 3123.021, or 3123.06 of the Revised Code and division (A)(2) of this section or, if the payor is an employer, no later than the first pay period that occurs after fourteen business days following the date the notice is mailed or transmitted;

(b) Send the amount withheld to the office of child support in the department of job and family services pursuant to section 3121.43 of the Revised Code immediately but not later than seven business days after the date the obligor is paid;

(c) Continue the withholding at intervals specified in the notice until further notice from the court or child support enforcement agency.

To the extent possible, the amount specified to be withheld shall satisfy the amount ordered for support in the support order plus any arrearages owed by the obligor under any prior support order that pertained to the same child or spouse, notwithstanding any applicable limitations of sections 2329.66, 2329.70, 2716.02, 2716.041, and 2716.05 of the Revised Code. However, in no

case shall the sum of the amount to be withheld and any fee withheld by the payor as a charge for its services exceed the maximum amount permitted under section 303(b) of the "Consumer Credit Protection Act," 15 U.S.C. 1673(b).

(2) A court or agency that imposes an income withholding requirement shall, within the applicable time specified in section 3119.80, 3119.81, 3121.035, 3123.021, or 3123.06 of the Revised Code, send to the obligor's payor by regular mail or via secure federally managed data transmission interface a notice that contains all of the information applicable to withholding notices set forth in section 3121.037 of the Revised Code. The notice is final and is enforceable by the court.

(B)(1) If the court or child support enforcement agency determines that the obligor has funds that are not exempt under the laws of this state or the United States from execution, attachment, or other legal process and are on deposit in an account in a financial institution under the jurisdiction of the court that issued the court support order, or in the case of an administrative child support order, under the jurisdiction of the common pleas court of the county in which the agency that issued or is administering the order is located, the court or agency may require any financial institution in which the obligor's funds are on deposit to do all of the following:

(a) Deduct from the obligor's account a specified amount for support in satisfaction of the support order and begin the deduction no later than fourteen business days following the date the notice was mailed or transmitted to the financial institution under section 3121.035 or 3123.06 of the Revised Code and division (B)(2) of this section;

(b) Send the amount deducted to the office of child support in the department of job and family services pursuant to section 3121.43 of the Revised Code immediately but not later than seven business days after the date the latest deduction was made;

(c) Provide the date on which the amount was deducted;

(d) Continue the deduction at intervals specified in the notice until further notice from the court or child support enforcement agency.

To the extent possible, the amount to be deducted shall satisfy the amount ordered for support in the support order plus any arrearages that may be owed by the obligor under any prior support order that pertained to the same child or spouse, notwithstanding the limitations of sections 2329.66, 2329.70, and 2716.13 of the Revised Code.

(2) A court or agency that imposes a deduction requirement shall, within the applicable period of time specified in section 3119.80, 3119.81, 3121.035, or 3123.06 of the Revised Code, send to the financial institution by regular mail or via secure federally managed data transmission interface a notice that contains all of the information applicable to deduction notices set forth in section 3121.037 of the Revised Code. The notice is final and is enforceable by the court.

(C) With respect to any court support order it issues, a court may issue an order requiring the obligor to enter into a cash bond with the court. The court shall issue the order as part of the court support order or, if the court support order has previously been issued, as a separate order. The cash bond shall be in a sum fixed by the court at not less than five hundred nor more than ten thousand dollars, conditioned that the obligor will make payment as previously ordered and will pay any arrearages under any prior court support order that pertained to the same child or spouse.

The order, along with an additional order requiring the obligor to immediately notify the child support enforcement agency, in writing, if the obligor begins to receive income from a payor,

shall be attached to and served on the obligor at the same time as service of the court support order or, if the court support order has previously been issued, as soon as possible after the issuance of the order under this section. The additional order requiring notice by the obligor shall state all of the following:

(1) That when the obligor begins to receive income from a payor the obligor may request that the court cancel its bond order and instead issue a notice requiring the withholding of an amount from income for support in accordance with this section;

(2) That when the obligor begins to receive income from a payor the court will proceed to collect on the bond if the court determines that payments due under the court support order have not been made and that the amount that has not been paid is at least equal to the support owed for one month under the court support order and will issue a notice requiring the withholding of an amount from income for support in accordance with this section. The notice required of the obligor shall include a description of the nature of any new employment, the name and business address of any new employer, and any other information reasonably required by the court.

The court shall not order an obligor to post a cash bond under this section unless the court determines that the obligor has the ability to do so.

A child support enforcement agency may not issue a cash bond order. If a child support enforcement agency is required to issue a withholding or deduction notice under this section with respect to a court support order but the agency determines that no withholding or deduction notice would be appropriate, the agency may request that the court issue a cash bond order under this section, and upon the request, the court may issue the order.

(D)(1) If the obligor under a court support order is unemployed, has no income, and does not have an account at any financial institution, or on request of a child support enforcement agency under division (D)(1) or (2) of this section, the court shall issue an order requiring the obligor, if able to engage in employment, to seek employment or participate in a work activity to which a recipient of assistance under Title IV-A of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, may be assigned as specified in section 407(d) of the "Social Security Act," 42 U.S.C.A. 607(d), as amended. The court shall include in the order requirements that the obligor register with the OhioMeansJobs web site and to notify the child support enforcement agency on obtaining employment, obtaining any income, or obtaining ownership of any asset with a value of five hundred dollars or more. The court may issue the order regardless of whether the obligee to whom the obligor owes support is a recipient of assistance under Title IV-A of the "Social Security Act." The court shall issue the order as part of a court support order or, if a court support order has previously been issued, as a separate order. If a child support enforcement agency is required to issue a withholding or deduction notice under this section with respect to a court support order but determines that no withholding or deduction notice would be appropriate, the agency may request that the court issue a court order under division (D)(1) of this section, and, on the request, the court may issue the order.

(2) If the obligor under an administrative child support order is unemployed, has no income, and does not have an account at any financial institution, the agency shall issue an administrative order requiring the obligor, if able to engage in employment, to seek employment or participate in a work activity to which a recipient of assistance under Title IV-A of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, may be assigned as specified in section 407(d) of the

"Social Security Act," 42 U.S.C.A. 607(d), as amended. The agency shall include in the order requirements that the obligor register with the OhioMeansJobs web site and to notify the agency on obtaining employment or income, or ownership of any asset with a value of five hundred dollars or more. The agency may issue the order regardless of whether the obligee to whom the obligor owes support is a recipient of assistance under Title IV-A of the "Social Security Act." If an obligor fails to comply with an administrative order issued pursuant to division (D)(2) of this section, the agency shall submit a request to a court for the court to issue an order under division (D)(1) of this section.

**Sec. 3301.078.** (A) No official or board of this state, whether appointed or elected, shall enter into any agreement or memorandum of understanding with any federal or private entity that would require the state to cede any measure of control over the development, adoption, or revision of academic content standards.

(B) No funds appropriated from the general revenue fund shall be used to purchase an assessment developed by the partnership for assessment of readiness for college and careers for use as the assessments prescribed under sections 3301.0710 and 3301.0712 of the Revised Code.

**Sec. 3301.0711.** (A) The department of education shall:

(1) Annually furnish to, grade, and score all assessments required by divisions (A)(1) and (B)(1) of section 3301.0710 of the Revised Code to be administered by city, local, exempted village, and joint vocational school districts, except that each district shall score any assessment administered pursuant to division (B)(10) of this section. Each assessment so furnished shall include the data verification code of the student to whom the assessment will be administered, as assigned pursuant to division (D)(2) of section 3301.0714 of the Revised Code. In furnishing the practice versions of Ohio graduation tests prescribed by division (D) of section 3301.0710 of the Revised Code, the department shall make the tests available on its web site for reproduction by districts. In awarding contracts for grading assessments, the department shall give preference to Ohio-based entities employing Ohio residents.

(2) Adopt rules for the ethical use of assessments and prescribing the manner in which the assessments prescribed by section 3301.0710 of the Revised Code shall be administered to students.

(B) Except as provided in divisions (C) and (J) of this section, the board of education of each city, local, and exempted village school district shall, in accordance with rules adopted under division (A) of this section:

(1) Administer the English language arts assessments prescribed under division (A)(1)(a) of section 3301.0710 of the Revised Code twice annually to all students in the third grade who have not attained the score designated for that assessment under division (A)(2)(c) of section 3301.0710 of the Revised Code.

(2) Administer the mathematics assessment prescribed under division (A)(1)(a) of section 3301.0710 of the Revised Code at least once annually to all students in the third grade.

(3) Administer the assessments prescribed under division (A)(1)(b) of section 3301.0710 of the Revised Code at least once annually to all students in the fourth grade.

(4) Administer the assessments prescribed under division (A)(1)(c) of section 3301.0710 of the Revised Code at least once annually to all students in the fifth grade.

(5) Administer the assessments prescribed under division (A)(1)(d) of section 3301.0710 of the Revised Code at least once annually to all students in the sixth grade.

(6) Administer the assessments prescribed under division (A)(1)(e) of section 3301.0710 of the Revised Code at least once annually to all students in the seventh grade.

(7) Administer the assessments prescribed under division (A)(1)(f) of section 3301.0710 of the Revised Code at least once annually to all students in the eighth grade.

(8) Except as provided in division (B)(9) of this section, administer any assessment prescribed under division (B)(1) of section 3301.0710 of the Revised Code as follows:

(a) At least once annually to all tenth grade students and at least twice annually to all students in eleventh or twelfth grade who have not yet attained the score on that assessment designated under that division;

(b) To any person who has successfully completed the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code but has not received a high school diploma and who requests to take such assessment, at any time such assessment is administered in the district.

(9) In lieu of the board of education of any city, local, or exempted village school district in which the student is also enrolled, the board of a joint vocational school district shall administer any assessment prescribed under division (B)(1) of section 3301.0710 of the Revised Code at least twice annually to any student enrolled in the joint vocational school district who has not yet attained the score on that assessment designated under that division. A board of a joint vocational school district may also administer such an assessment to any student described in division (B)(8)(b) of this section.

(10) If the district has a three-year average graduation rate of not more than seventy-five per cent, administer each assessment prescribed by division (D) of section 3301.0710 of the Revised Code in September to all ninth grade students who entered ninth grade prior to July 1, 2014.

Except as provided in section 3313.614 of the Revised Code for administration of an assessment to a person who has fulfilled the curriculum requirement for a high school diploma but has not passed one or more of the required assessments, the assessments prescribed under division (B)(1) of section 3301.0710 of the Revised Code shall not be administered after the date specified in the rules adopted by the state board of education under division (D)(1) of section 3301.0712 of the Revised Code.

(11)(a) Except as provided in division (B)(11)(b) of this section, administer the assessments prescribed by division (B)(2) of section 3301.0710 and section 3301.0712 of the Revised Code in accordance with the timeline and plan for implementation of those assessments prescribed by rule of the state board adopted under division (D)(1) of section 3301.0712 of the Revised Code;

(b) A student who has presented evidence to the district or school of having satisfied the condition prescribed by division (A)(1) of section 3313.618 of the Revised Code to qualify for a high school diploma prior to the date of the administration of the assessment prescribed under division (B)(1) of section 3301.0712 of the Revised Code shall not be required to take that assessment. However, no board shall prohibit a student who is not required to take such assessment from taking the assessment.

(C)(1)(a) In the case of a student receiving special education services under Chapter 3323. of the Revised Code, the individualized education program developed for the student under that chapter shall specify the manner in which the student will participate in the assessments administered under this section, except that a student with significant cognitive disabilities to whom an alternate



assessment is administered in accordance with division (C)(1) of this section and a student determined to have a disability that includes an intellectual disability as outlined in guidance issued by the department shall not be required to take the assessment prescribed under division (B)(1) of section 3301.0712 of the Revised Code. The individualized education program may excuse the student from taking any particular assessment required to be administered under this section if it instead specifies an alternate assessment method approved by the department of education as conforming to requirements of federal law for receipt of federal funds for disadvantaged pupils. To the extent possible, the individualized education program shall not excuse the student from taking an assessment unless no reasonable accommodation can be made to enable the student to take the assessment. No board shall prohibit a student who is not required to take an assessment under division (C)(1) of this section from taking the assessment.

(b) Any alternate assessment approved by the department for a student under this division shall produce measurable results comparable to those produced by the assessment it replaces in order to allow for the student's results to be included in the data compiled for a school district or building under section 3302.03 of the Revised Code.

(c)(i) Any student enrolled in a chartered nonpublic school who has been identified, based on an evaluation conducted in accordance with section 3323.03 of the Revised Code or section 504 of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 794, as amended, as a child with a disability shall be excused from taking any particular assessment required to be administered under this section if a plan developed for the student pursuant to rules adopted by the state board excuses the student from taking that assessment.

(ii) A student with significant cognitive disabilities to whom an alternate assessment is administered in accordance with division (C)(1) of this section and a student determined to have a disability that includes an intellectual disability as outlined in guidance issued by the department shall not be required to take the assessment prescribed under division (B)(1) of section 3301.0712 of the Revised Code.

(iii) In the case of any student so excused from taking an assessment under division (C)(1)(c) of this section, the chartered nonpublic school shall not prohibit the student from taking the assessment.

(2) A district board may, for medical reasons or other good cause, excuse a student from taking an assessment administered under this section on the date scheduled, but that assessment shall be administered to the excused student not later than nine days following the scheduled date. The district board shall annually report the number of students who have not taken one or more of the assessments required by this section to the state board not later than the thirtieth day of June.

(3) As used in this division, "limited English proficient student" has the same meaning as in 20 U.S.C. 7801.

No school district board shall excuse any limited English proficient student from taking any particular assessment required to be administered under this section, except as follows:

(a) Any limited English proficient student who has been enrolled in United States schools for less than two years and for whom no appropriate accommodations are available based on guidance issued by the department shall not be required to take the assessment prescribed under division (B)(1) of section 3301.0712 of the Revised Code.

(b) Any limited English proficient student who has been enrolled in United States schools for less than one full school year shall not be required to take any reading, writing, or English language arts assessment.

However, no board shall prohibit a limited English proficient student who is not required to take an assessment under division (C)(3) of this section from taking the assessment. A board may permit any limited English proficient student to take an assessment required to be administered under this section with appropriate accommodations, as determined by the department. For each limited English proficient student, each school district shall annually assess that student's progress in learning English, in accordance with procedures approved by the department.

(4)(a) The governing authority of a chartered nonpublic school may excuse a limited English proficient student from taking any assessment administered under this section.

(b) No governing authority shall require a limited English proficient student who has been enrolled in United States schools for less than two years and for whom no appropriate accommodations are available based on guidance issued by the department to take the assessment prescribed under division (B)(1) of section 3301.0712 of the Revised Code.

(c) No governing authority shall prohibit a limited English proficient student from taking an assessment from which the student was excused under division (C)(4) of this section.

(D)(1) In the school year next succeeding the school year in which the assessments prescribed by division (A)(1) or (B)(1) of section 3301.0710 of the Revised Code or former division (A)(1), (A)(2), or (B) of section 3301.0710 of the Revised Code as it existed prior to September 11, 2001, are administered to any student, the board of education of any school district in which the student is enrolled in that year shall provide to the student intervention services commensurate with the student's performance, including any intensive intervention required under section 3313.608 of the Revised Code, in any skill in which the student failed to demonstrate at least a score at the proficient level on the assessment.

(2) Following any administration of the assessments prescribed by division (D) of section 3301.0710 of the Revised Code to ninth grade students, each school district that has a three-year average graduation rate of not more than seventy-five per cent shall determine for each high school in the district whether the school shall be required to provide intervention services to any students who took the assessments. In determining which high schools shall provide intervention services based on the resources available, the district shall consider each school's graduation rate and scores on the practice assessments. The district also shall consider the scores received by ninth grade students on the English language arts and mathematics assessments prescribed under division (A)(1)(f) of section 3301.0710 of the Revised Code in the eighth grade in determining which high schools shall provide intervention services.

Each high school selected to provide intervention services under this division shall provide intervention services to any student whose results indicate that the student is failing to make satisfactory progress toward being able to attain scores at the proficient level on the Ohio graduation tests. Intervention services shall be provided in any skill in which a student demonstrates unsatisfactory progress and shall be commensurate with the student's performance. Schools shall provide the intervention services prior to the end of the school year, during the summer following the ninth grade, in the next succeeding school year, or at any combination of those times.

(E) Except as provided in section 3313.608 of the Revised Code and division (N) of this section, no school district board of education shall utilize any student's failure to attain a specified score on an assessment administered under this section as a factor in any decision to deny the student promotion to a higher grade level. However, a district board may choose not to promote to the next grade level any student who does not take an assessment administered under this section or make up an assessment as provided by division (C)(2) of this section and who is not exempt from the requirement to take the assessment under division (C)(3) of this section.

(F) No person shall be charged a fee for taking any assessment administered under this section.

(G)(1) Each school district board shall designate one location for the collection of assessments administered in the spring under division (B)(1) of this section and those administered under divisions (B)(2) to (7) of this section. Each district board shall submit the assessments to the entity with which the department contracts for the scoring of the assessments as follows:

(a) If the district's total enrollment in grades kindergarten through twelve during the first full school week of October was less than two thousand five hundred, not later than the Friday after all of the assessments have been administered;

(b) If the district's total enrollment in grades kindergarten through twelve during the first full school week of October was two thousand five hundred or more, but less than seven thousand, not later than the Monday after all of the assessments have been administered;

(c) If the district's total enrollment in grades kindergarten through twelve during the first full school week of October was seven thousand or more, not later than the Tuesday after all of the assessments have been administered.

However, any assessment that a student takes during the make-up period described in division (C)(2) of this section shall be submitted not later than the Friday following the day the student takes the assessment.

(2) The department or an entity with which the department contracts for the scoring of the assessment shall send to each school district board a list of the individual scores of all persons taking a state achievement assessment as follows:

(a) Except as provided in division (G)(2)(b) or (c) of this section, within forty-five days after the administration of the assessments prescribed by sections 3301.0710 and 3301.0712 of the Revised Code, but in no case shall the scores be returned later than the thirtieth day of June following the administration;

(b) In the case of the third-grade English language arts assessment, within forty-five days after the administration of that assessment, but in no case shall the scores be returned later than the fifteenth day of June following the administration;

(c) In the case of the writing component of an assessment or end-of-course examination in the area of English language arts, except for the third-grade English language arts assessment, the results may be sent after forty-five days of the administration of the writing component, but in no case shall the scores be returned later than the thirtieth day of June following the administration.

(3) For assessments administered under this section by a joint vocational school district, the department or entity shall also send to each city, local, or exempted village school district a list of the individual scores of any students of such city, local, or exempted village school district who are

attending school in the joint vocational school district.

(H) Individual scores on any assessments administered under this section shall be released by a district board only in accordance with section 3319.321 of the Revised Code and the rules adopted under division (A) of this section. No district board or its employees shall utilize individual or aggregate results in any manner that conflicts with rules for the ethical use of assessments adopted pursuant to division (A) of this section.

(I) Except as provided in division (G) of this section, the department or an entity with which the department contracts for the scoring of the assessment shall not release any individual scores on any assessment administered under this section. The state board shall adopt rules to ensure the protection of student confidentiality at all times. The rules may require the use of the data verification codes assigned to students pursuant to division (D)(2) of section 3301.0714 of the Revised Code to protect the confidentiality of student scores.

(J) Notwithstanding division (D) of section 3311.52 of the Revised Code, this section does not apply to the board of education of any cooperative education school district except as provided under rules adopted pursuant to this division.

(1) In accordance with rules that the state board shall adopt, the board of education of any city, exempted village, or local school district with territory in a cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code may enter into an agreement with the board of education of the cooperative education school district for administering any assessment prescribed under this section to students of the city, exempted village, or local school district who are attending school in the cooperative education school district.

(2) In accordance with rules that the state board shall adopt, the board of education of any city, exempted village, or local school district with territory in a cooperative education school district established pursuant to section 3311.521 of the Revised Code shall enter into an agreement with the cooperative district that provides for the administration of any assessment prescribed under this section to both of the following:

(a) Students who are attending school in the cooperative district and who, if the cooperative district were not established, would be entitled to attend school in the city, local, or exempted village school district pursuant to section 3313.64 or 3313.65 of the Revised Code;

(b) Persons described in division (B)(8)(b) of this section.

Any assessment of students pursuant to such an agreement shall be in lieu of any assessment of such students or persons pursuant to this section.

(K)(1) Except as otherwise provided in division (K)(1) or (2) of this section, each chartered nonpublic school for which at least sixty-five per cent of its total enrollment is made up of students who are participating in state scholarship programs shall administer the elementary assessments prescribed by section 3301.0710 of the Revised Code. In accordance with procedures and deadlines prescribed by the department, the parent or guardian of a student enrolled in the school who is not participating in a state scholarship program may submit notice to the chief administrative officer of the school that the parent or guardian does not wish to have the student take the elementary assessments prescribed for the student's grade level under division (A) of section 3301.0710 of the Revised Code. If a parent or guardian submits an opt-out notice, the school shall not administer the assessments to that student. This option does not apply to any assessment required for a high school

diploma under section 3313.612 of the Revised Code.

(2) A chartered nonpublic school may submit to the superintendent of public instruction a request for a waiver from administering the elementary assessments prescribed by division (A) of section 3301.0710 of the Revised Code. The state superintendent shall approve or disapprove a request for a waiver submitted under division (K)(2) of this section. No waiver shall be approved for any school year prior to the 2015-2016 school year.

To be eligible to submit a request for a waiver, a chartered nonpublic school shall meet the following conditions:

(a) At least ninety-five per cent of the students enrolled in the school are children with disabilities, as defined under section 3323.01 of the Revised Code, or have received a diagnosis by a school district or from a physician, including a neuropsychiatrist or psychiatrist, or a psychologist who is authorized to practice in this or another state as having a condition that impairs academic performance, such as dyslexia, dyscalculia, attention deficit hyperactivity disorder, or Asperger's syndrome.

(b) The school has solely served a student population described in division (K)(1)(a) of this section for at least ten years.

(c) The school provides to the department at least five years of records of internal testing conducted by the school that affords the department data required for accountability purposes, including diagnostic assessments and nationally standardized norm-referenced achievement assessments that measure reading and math skills.

(3) Any chartered nonpublic school that is not subject to division (K)(1) of this section may participate in the assessment program by administering any of the assessments prescribed by division (A) of section 3301.0710 of the Revised Code. The chief administrator of the school shall specify which assessments the school will administer. Such specification shall be made in writing to the superintendent of public instruction prior to the first day of August of any school year in which assessments are administered and shall include a pledge that the nonpublic school will administer the specified assessments in the same manner as public schools are required to do under this section and rules adopted by the department.

(4) The department of education shall furnish the assessments prescribed by section 3301.0710 of the Revised Code to each chartered nonpublic school that is subject to division (K)(1) of this section or participates under division (K)(3) of this section.

(L) If a chartered nonpublic school is educating students in grades nine through twelve, the following shall apply:

(1) For a student who is enrolled in a chartered nonpublic school that is accredited through the independent schools association of the central states and who is attending the school under a state scholarship program, the student shall either take all of the assessments prescribed by division (B) of section 3301.0712 of the Revised Code or take an alternative assessment approved by the department under section 3313.619 of the Revised Code. However, a student who is excused from taking an assessment under division (C) of this section or has presented evidence to the chartered nonpublic school of having satisfied the condition prescribed by division (A)(1) of section 3313.618 of the Revised Code to qualify for a high school diploma prior to the date of the administration of the assessment prescribed under division (B)(1) of section 3301.0712 of the Revised Code shall not be

required to take that assessment. No governing authority of a chartered nonpublic school shall prohibit a student who is not required to take such assessment from taking the assessment.

(2) For a student who is enrolled in a chartered nonpublic school that is accredited through the independent schools association of the central states, and who is not attending the school under a state scholarship program, the student shall not be required to take any assessment prescribed under section 3301.0712 or 3313.619 of the Revised Code.

(3)(a) Except as provided in division (L)(3)(b) of this section, for a student who is enrolled in a chartered nonpublic school that is not accredited through the independent schools association of the central states, regardless of whether the student is attending or is not attending the school under a state scholarship program, the student shall do one of the following:

(i) Take all of the assessments prescribed by division (B) of section 3301.0712 of the Revised Code;

(ii) Take only the assessment prescribed by division (B)(1) of section 3301.0712 of the Revised Code, provided that the student's school publishes the results of that assessment for each graduating class. The published results of that assessment shall include the overall composite scores, mean scores, twenty-fifth percentile scores, and seventy-fifth percentile scores for each subject area of the assessment.

(iii) Take an alternative assessment approved by the department under section 3313.619 of the Revised Code.

(b) A student who is excused from taking an assessment under division (C) of this section or has presented evidence to the chartered nonpublic school of having satisfied the condition prescribed by division (A)(1) of section 3313.618 of the Revised Code to qualify for a high school diploma prior to the date of the administration of the assessment prescribed under division (B)(1) of section 3301.0712 of the Revised Code shall not be required to take that assessment. No governing authority of a chartered nonpublic school shall prohibit a student who is not required to take such assessment from taking the assessment.

(M)(1) The superintendent of the state school for the blind and the superintendent of the state school for the deaf shall administer the assessments described by sections 3301.0710 and 3301.0712 of the Revised Code. Each superintendent shall administer the assessments in the same manner as district boards are required to do under this section and rules adopted by the department of education and in conformity with division (C)(1)(a) of this section.

(2) The department of education shall furnish the assessments described by sections 3301.0710 and 3301.0712 of the Revised Code to each superintendent.

(N) Notwithstanding division (E) of this section, a school district may use a student's failure to attain a score in at least the proficient range on the mathematics assessment described by division (A)(1)(a) of section 3301.0710 of the Revised Code or on an assessment described by division (A)(1)(b), (c), (d), (e), or (f) of section 3301.0710 of the Revised Code as a factor in retaining that student in the current grade level.

(O)(1) In the manner specified in divisions (O)(3), (4), (6), and (7) of this section, the assessments required by division (A)(1) of section 3301.0710 of the Revised Code shall become public records pursuant to section 149.43 of the Revised Code on the thirty-first day of July following the school year that the assessments were administered.

(2) The department may field test proposed questions with samples of students to determine the validity, reliability, or appropriateness of questions for possible inclusion in a future year's assessment. The department also may use anchor questions on assessments to ensure that different versions of the same assessment are of comparable difficulty.

Field test questions and anchor questions shall not be considered in computing scores for individual students. Field test questions and anchor questions may be included as part of the administration of any assessment required by division (A)(1) or (B) of section 3301.0710 and division (B) of section 3301.0712 of the Revised Code.

(3) Any field test question or anchor question administered under division (O)(2) of this section shall not be a public record. Such field test questions and anchor questions shall be redacted from any assessments which are released as a public record pursuant to division (O)(1) of this section.

(4) This division applies to the assessments prescribed by division (A) of section 3301.0710 of the Revised Code.

(a) The first administration of each assessment, as specified in former section 3301.0712 of the Revised Code, shall be a public record.

(b) For subsequent administrations of each assessment prior to the 2011-2012 school year, not less than forty per cent of the questions on the assessment that are used to compute a student's score shall be a public record. The department shall determine which questions will be needed for reuse on a future assessment and those questions shall not be public records and shall be redacted from the assessment prior to its release as a public record. However, for each redacted question, the department shall inform each city, local, and exempted village school district of the statewide academic standard adopted by the state board under section 3301.079 of the Revised Code and the corresponding benchmark to which the question relates. The preceding sentence does not apply to field test questions that are redacted under division (O)(3) of this section.

(c) The administrations of each assessment in the 2011-2012, 2012-2013, and 2013-2014 school years shall not be a public record.

(5) Each assessment prescribed by division (B)(1) of section 3301.0710 of the Revised Code shall not be a public record.

(6)(a) Except as provided in division (O)(6)(b) of this section, for the administrations in the 2014-2015, 2015-2016, and 2016-2017 school years, questions on the assessments prescribed under division (A) of section 3301.0710 and division (B)(2) of section 3301.0712 of the Revised Code and the corresponding preferred answers that are used to compute a student's score shall become a public record as follows:

(i) Forty per cent of the questions and preferred answers on the assessments on the thirty-first day of July following the administration of the assessment;

(ii) Twenty per cent of the questions and preferred answers on the assessment on the thirty-first day of July one year after the administration of the assessment;

(iii) The remaining forty per cent of the questions and preferred answers on the assessment on the thirty-first day of July two years after the administration of the assessment.

The entire content of an assessment shall become a public record within three years of its administration.

The department shall make the questions that become a public record under this division readily accessible to the public on the department's web site. Questions on the spring administration of each assessment shall be released on an annual basis, in accordance with this division.

(b) No questions and corresponding preferred answers shall become a public record under division (O)(6) of this section after July 31, 2017.

(7) Division (O)(7) of this section applies to the assessments prescribed by division (A) of section 3301.0710 and division (B)(2) of section 3301.0712 of the Revised Code.

Beginning with the assessments administered in the spring of the 2017-2018 school year, not less than forty per cent of the questions on each assessment that are used to compute a student's score shall be a public record. The department shall determine which questions will be needed for reuse on a future assessment and those questions shall not be public records and shall be redacted from the assessment prior to its release as a public record. However, for each redacted question, the department shall inform each city, local, and exempted village school district of the corresponding statewide academic standard adopted by the state board under section 3301.079 of the Revised Code and the corresponding benchmark to which the question relates. The department is not required to provide corresponding standards and benchmarks to field test questions that are redacted under division (O)(3) of this section.

(P) As used in this section:

(1) "Three-year average" means the average of the most recent consecutive three school years of data.

(2) "Dropout" means a student who withdraws from school before completing course requirements for graduation and who is not enrolled in an education program approved by the state board of education or an education program outside the state. "Dropout" does not include a student who has departed the country.

(3) "Graduation rate" means the ratio of students receiving a diploma to the number of students who entered ninth grade four years earlier. Students who transfer into the district are added to the calculation. Students who transfer out of the district for reasons other than dropout are subtracted from the calculation. If a student who was a dropout in any previous year returns to the same school district, that student shall be entered into the calculation as if the student had entered ninth grade four years before the graduation year of the graduating class that the student joins.

(4) "State scholarship programs" means the educational choice scholarship pilot program established under sections 3310.01 to 3310.17 of the Revised Code, the autism scholarship program established under section 3310.41 of the Revised Code, the Jon Peterson special needs scholarship program established under sections 3310.51 to 3310.64 of the Revised Code, and the pilot project scholarship program established under sections 3313.974 to 3313.979 of the Revised Code.

**Sec. 3301.0712.** (A) The state board of education, the superintendent of public instruction, and the chancellor of higher education shall develop a system of college and work ready assessments as described in division (B) of this section to assess whether each student upon graduating from high school is ready to enter college or the workforce. Beginning with students who enter the ninth grade for the first time on or after July 1, 2014, the system shall replace the Ohio graduation tests prescribed in division (B)(1) of section 3301.0710 of the Revised Code as a measure of student academic performance and one determinant of eligibility for a high school diploma in the manner



prescribed by rule of the state board adopted under division (D) of this section.

(B) The college and work ready assessment system shall consist of the following:

(1) Nationally standardized assessments that measure college and career readiness and are used for college admission. The assessments shall be selected jointly by the state superintendent and the chancellor, and one of which shall be selected by each school district or school to administer to its students. The assessments prescribed under division (B)(1) of this section shall be administered to all eleventh-grade students in the spring of the school year.

(2) Seven end-of-course examinations, one in each of the areas of English language arts I, English language arts II, science, Algebra I, geometry, American history, and American government. The end-of-course examinations shall be selected jointly by the state superintendent and the chancellor in consultation with faculty in the appropriate subject areas at institutions of higher education of the university system of Ohio. Advanced placement examinations and international baccalaureate examinations, as prescribed under section 3313.6013 of the Revised Code, in the areas of science, American history, and American government may be used as end-of-course examinations in accordance with division (B)(4)(a)(i) of this section. Final course grades for courses taken under any other advanced standing program, as prescribed under section 3313.6013 of the Revised Code, in the areas of science, American history, and American government may be used in lieu of end-of-course examinations in accordance with division (B)(4)(a)(ii) of this section.

(3)(a) Not later than July 1, 2013, each school district board of education shall adopt interim end-of-course examinations that comply with the requirements of divisions (B)(3)(b)(i) and (ii) of this section to assess mastery of American history and American government standards adopted under division (A)(1)(b) of section 3301.079 of the Revised Code and the topics required under division (M) of section 3313.603 of the Revised Code. Each high school of the district shall use the interim examinations until the state superintendent and chancellor select end-of-course examinations in American history and American government under division (B)(2) of this section.

(b) Not later than July 1, 2014, the state superintendent and the chancellor shall select the end-of-course examinations in American history and American government.

(i) The end-of-course examinations in American history and American government shall require demonstration of mastery of the American history and American government content for social studies standards adopted under division (A)(1)(b) of section 3301.079 of the Revised Code and the topics required under division (M) of section 3313.603 of the Revised Code.

(ii) At least twenty per cent of the end-of-course examination in American government shall address the topics on American history and American government described in division (M) of section 3313.603 of the Revised Code.

(4)(a) Notwithstanding anything to the contrary in this section, beginning with the 2014-2015 school year, both of the following shall apply:

(i) If a student is enrolled in an appropriate advanced placement or international baccalaureate course, that student shall take the advanced placement or international baccalaureate examination in lieu of the science, American history, or American government end-of-course examinations prescribed under division (B)(2) of this section. The state board shall specify the score levels for each advanced placement examination and international baccalaureate examination for purposes of calculating the minimum cumulative performance score that demonstrates the level of

academic achievement necessary to earn a high school diploma.

(ii) If a student is enrolled in an appropriate course under any other advanced standing program, as described in section 3313.6013 of the Revised Code, that student shall not be required to take the science, American history, or American government end-of-course examination, whichever is applicable, prescribed under division (B)(2) of this section. Instead, that student's final course grade shall be used in lieu of the applicable end-of-course examination prescribed under that section. The state superintendent, in consultation with the chancellor, shall adopt guidelines for purposes of calculating the corresponding final course grades that demonstrate the level of academic achievement necessary to earn a high school diploma.

Division (B)(4)(a)(ii) of this section shall apply only to courses for which students receive transcribed credit, as defined in section 3365.01 of the Revised Code. It shall not apply to remedial or developmental courses.

(b) No student shall take a substitute examination or examination prescribed under division (B)(4)(a) of this section in place of the end-of-course examinations in English language arts I, English language arts II, Algebra I, or geometry prescribed under division (B)(2) of this section.

(c) The state board shall consider additional assessments that may be used, beginning with the 2016-2017 school year, as substitute examinations in lieu of the end-of-course examinations prescribed under division (B)(2) of this section.

(5) The state board shall do all of the following:

(a) Determine and designate at least five ranges of scores on each of the end-of-course examinations prescribed under division (B)(2) of this section, and substitute examinations prescribed under division (B)(4) of this section. Each range of scores shall be considered to demonstrate a level of achievement so that any student attaining a score within such range has achieved one of the following:

- (i) An advanced level of skill;
- (ii) An accelerated level of skill;
- (iii) A proficient level of skill;
- (iv) A basic level of skill;
- (v) A limited level of skill.

(b) Determine a method by which to calculate a cumulative performance score based on the results of a student's end-of-course examinations or substitute examinations;

(c) Determine the minimum cumulative performance score that demonstrates the level of academic achievement necessary to earn a high school diploma;

(d) Develop a table of corresponding score equivalents for the end-of-course examinations and substitute examinations in order to calculate student performance consistently across the different examinations.

A score of two on an advanced placement examination or a score of two or three on an international baccalaureate examination shall be considered equivalent to a proficient level of skill as specified under division (B)(5)(a)(iii) of this section.

(6)(a) A student who meets both of the following conditions shall not be required to take an end-of-course examination:

- (i) The student received high school credit prior to July 1, 2015, for a course for which the

end-of-course examination is prescribed.

(ii) The examination was not available for administration prior to July 1, 2015.

Receipt of credit for the course described in division (B)(6)(a)(i) of this section shall satisfy the requirement to take the end-of-course examination. A student exempted under division (B)(6)(a) of this section may take the applicable end-of-course examination at a later date.

(b) For purposes of determining whether a student who is exempt from taking an end-of-course examination under division (B)(6)(a) of this section has attained the cumulative score prescribed by division (B)(5)(c) of this section, such student shall select either of the following:

(i) The student is considered to have attained a proficient score on the end-of-course examination from which the student is exempt;

(ii) The student's final course grade shall be used in lieu of a score on the end-of-course examination from which the student is exempt.

The state superintendent, in consultation with the chancellor, shall adopt guidelines for purposes of calculating the corresponding final course grades and the minimum cumulative performance score that demonstrates the level of academic achievement necessary to earn a high school diploma.

(7)(a) Notwithstanding anything to the contrary in this section, the state board may replace the algebra I end-of-course examination prescribed under division (B)(2) of this section with an algebra II end-of-course examination, beginning with the 2016-2017 school year for students who enter ninth grade on or after July 1, 2016.

(b) If the state board replaces the algebra I end-of-course examination with an algebra II end-of-course examination as authorized under division (B)(7)(a) of this section, both of the following shall apply:

(i) A student who is enrolled in an advanced placement or international baccalaureate course in algebra II shall take the advanced placement or international baccalaureate examination in lieu of the algebra II end-of-course examination.

(ii) A student who is enrolled in an algebra II course under any other advanced standing program, as described in section 3313.6013 of the Revised Code, shall not be required to take the algebra II end-of-course examination. Instead, that student's final course grade shall be used in lieu of the examination.

(c) If a school district or school utilizes an integrated approach to mathematics instruction, the district or school may do either or both of the following:

(i) Administer an integrated mathematics I end-of-course examination in lieu of the prescribed algebra I end-of-course examination;

(ii) Administer an integrated mathematics II end-of-course examination in lieu of the prescribed geometry end-of-course examination.

(8)(a) For students entering the ninth grade for the first time on or after July 1, 2014, but prior to July 1, 2015, the assessment in the area of science shall be physical science or biology. For students entering the ninth grade for the first time on or after July 1, 2015, the assessment in the area of science shall be biology.

(b) Until July 1, 2019, the department of education shall make available the end-of-course examination in physical science for students who entered the ninth grade for the first time on or after

July 1, 2014, but prior to July 1, 2015, and who wish to retake the examination.

(c) Not later than July 1, 2016, the state board shall adopt rules prescribing the requirements for the end-of-course examination in science for students who entered the ninth grade for the first time on or after July 1, 2014, but prior to July 1, 2015, and who have not met the requirement prescribed by section 3313.618 of the Revised Code by July 1, 2019, due to a student's failure to satisfy division (A)(2) of section 3313.618 of the Revised Code.

(9) Neither the state board nor the department of education shall develop or administer an end-of-course examination in the area of world history.

(C) The state board shall convene a group of national experts, state experts, and local practitioners to provide advice, guidance, and recommendations for the alignment of standards and model curricula to the assessments and in the design of the end-of-course examinations prescribed by this section.

(D) Upon completion of the development of the assessment system, the state board shall adopt rules prescribing all of the following:

(1) A timeline and plan for implementation of the assessment system, including a phased implementation if the state board determines such a phase-in is warranted;

(2) The date after which a person shall meet the requirements of the entire assessment system as a prerequisite for a diploma of adult education under section 3313.611 of the Revised Code;

(3) Whether and the extent to which a person may be excused from an American history end-of-course examination and an American government end-of-course examination under division (H) of section 3313.61 and division (B)(3) of section 3313.612 of the Revised Code;

(4) The date after which a person who has fulfilled the curriculum requirement for a diploma but has not passed one or more of the required assessments at the time the person fulfilled the curriculum requirement shall meet the requirements of the entire assessment system as a prerequisite for a high school diploma under division (B) of section 3313.614 of the Revised Code;

(5) The extent to which the assessment system applies to students enrolled in a dropout recovery and prevention program for purposes of division (F) of section 3313.603 and section 3314.36 of the Revised Code.

(E) Not later than forty-five days prior to the state board's adoption of a resolution directing the department to file the rules prescribed by division (D) of this section in final form under section 119.04 of the Revised Code, the superintendent of public instruction shall present the assessment system developed under this section to the respective committees of the house of representatives and senate that consider education legislation.

(F)(1) Any person enrolled in a nonchartered nonpublic school or any person who has been excused from attendance at school for the purpose of home instruction under section 3321.04 of the Revised Code may choose to participate in the system of assessments administered under divisions (B)(1) and (2) of this section. However, no such person shall be required to participate in the system of assessments.

(2) The department shall adopt rules for the administration and scoring of any assessments under division (F)(1) of this section.

(G) Not later than December 31, 2014, the state board shall select at least one nationally recognized job skills assessment. Each school district shall administer that assessment to those

students who opt to take it. The state shall reimburse a school district for the costs of administering that assessment. The state board shall establish the minimum score a student must attain on the job skills assessment in order to demonstrate a student's workforce readiness and employability. The administration of the job skills assessment to a student under this division shall not exempt a school district from administering the assessments prescribed in division (B) of this section to that student.

**Sec. 3301.52.** As used in sections 3301.52 to 3301.59 of the Revised Code:

(A) "Preschool program" means either of the following:

(1) A child care program for preschool children that is operated by a school district board of education or an eligible nonpublic school.

(2) A child care program for preschool children age three or older that is operated by a county board of developmental disabilities or a community school.

(B) "Preschool child" or "child" means a child who has not entered kindergarten and is not of compulsory school age.

(C) "Parent, guardian, or custodian" means the person or government agency that is or will be responsible for a child's school attendance under section 3321.01 of the Revised Code.

(D) "Superintendent" means the superintendent of a school district or the chief administrative officer of a community school or an eligible nonpublic school.

(E) "Director" means the director, head teacher, elementary principal, or site administrator who is the individual on site and responsible for supervision of a preschool program.

(F) "Preschool staff member" means a preschool employee whose primary responsibility is care, teaching, or supervision of preschool children.

(G) "Nonteaching employee" means a preschool program or school child program employee whose primary responsibilities are duties other than care, teaching, and supervision of preschool children or school children.

(H) "Eligible nonpublic school" means a nonpublic school chartered as described in division (B)(8) of section 5104.02 of the Revised Code or chartered by the state board of education for any combination of grades one through twelve, regardless of whether it also offers kindergarten.

(I) "School child program" means a child care program for only school children that is operated by a school district board of education, county board of developmental disabilities, community school, or eligible nonpublic school.

(J) "School child" means a child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above but is less than fifteen years old.

(K) "School child program staff member" means an employee whose primary responsibility is the care, teaching, or supervision of children in a school child program.

(L) "Child care" means administering to the needs of infants, toddlers, preschool children, and school children outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage, or adoption for any part of the twenty-four-hour day in a place or residence other than a child's own home.

(M) "Child day-care center," "publicly funded child care," and "school-age child care center" have the same meanings as in section 5104.01 of the Revised Code.

(N) "Community school" means either of the following:

(1) A community school established under Chapter 3314. of the Revised Code that is

sponsored by an entity that is rated "exemplary" under section 3314.016 of the Revised Code.

(2) A community school established under Chapter 3314. of the Revised Code that has received, on its most recent report card, either of the following:

(a) If the school offers any of grade levels four through twelve, a grade of "C" or better for the overall value-added progress dimension under division (C)(1)(e) of section 3302.03 of the Revised Code and for the performance index score under division (C)(1)(b) of section 3302.03 of the Revised Code;

(b) If the school does not offer a grade level higher than three, a grade of "C" or better for making progress in improving literacy in grades kindergarten through three under division (C)(1)(g) of section 3302.03 of the Revised Code.

**Sec. 3301.53.** (A) The state board of education, in consultation with the director of job and family services, shall formulate and prescribe by rule adopted under Chapter 119. of the Revised Code minimum standards to be applied to preschool programs operated by school district boards of education, county boards of developmental disabilities, community schools, or eligible nonpublic schools. The rules shall include the following:

(1) Standards ensuring that the preschool program is located in a safe and convenient facility that accommodates the enrollment of the program, is of the quality to support the growth and development of the children according to the program objectives, and meets the requirements of section 3301.55 of the Revised Code;

(2) Standards ensuring that supervision, discipline, and programs will be administered according to established objectives and procedures;

(3) Standards ensuring that preschool staff members and nonteaching employees are recruited, employed, assigned, evaluated, and provided inservice education without discrimination on the basis of age, color, national origin, race, or sex; and that preschool staff members and nonteaching employees are assigned responsibilities in accordance with written position descriptions commensurate with their training and experience;

(4) A requirement that boards of education intending to establish a preschool program demonstrate a need for a preschool program prior to establishing the program;

(5) Requirements that children participating in preschool programs have been immunized to the extent considered appropriate by the state board to prevent the spread of communicable disease;

(6) Requirements that the parents of preschool children complete the emergency medical authorization form specified in section 3313.712 of the Revised Code.

(B) The state board of education in consultation with the director of job and family services shall ensure that the rules adopted by the state board under sections 3301.52 to 3301.58 of the Revised Code are consistent with and meet or exceed the requirements of Chapter 5104. of the Revised Code with regard to child day-care centers. The state board and the director of job and family services shall review all such rules at least once every five years.

(C) The state board of education, in consultation with the director of job and family services, shall adopt rules for school child programs that are consistent with and meet or exceed the requirements of the rules adopted for school-age child care centers under Chapter 5104. of the Revised Code.

**Sec. 3301.541.** (A)(1) The director, head teacher, elementary principal, or site administrator

of a preschool program shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any applicant who has applied to the preschool program for employment as a person responsible for the care, custody, or control of a child. If the applicant does not present proof that the applicant has been a resident of this state for the five-year period immediately prior to the date upon which the criminal records check is requested or does not provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the director, head teacher, or elementary principal shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check for the applicant. If the applicant presents proof that the applicant has been a resident of this state for that five-year period, the director, head teacher, or elementary principal may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) Any director, head teacher, elementary principal, or site administrator required by division (A)(1) of this section to request a criminal records check shall provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code, provide to each applicant a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation at the time the person requests a criminal records check pursuant to division (A)(1) of this section.

(3) Any applicant who receives pursuant to division (A)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and provide the impression sheet with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, the preschool program shall not employ that applicant for any position for which a criminal records check is required by division (A)(1) of this section.

(B)(1) Except as provided in rules adopted by the department of education in accordance with division (E) of this section, no preschool program shall employ a person as a person responsible for the care, custody, or control of a child if the person previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation occurred prior to

that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

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

(2) A preschool program may employ an applicant conditionally until the criminal records check required by this section is completed and the preschool program receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (B)(1) of this section, the applicant does not qualify for employment, the preschool program shall release the applicant from employment.

(C)(1) Each preschool program shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request pursuant to division (A)(1) of this section of the director, head teacher, elementary principal, or site administrator of the preschool program.

(2) A preschool program may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section. A fee charged under this division shall not exceed the amount of fees the preschool program pays under division (C)(1) of this section. If a fee is charged under this division, the preschool program shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the applicant will not be considered for employment.

(D) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request under division (A)(1) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the applicant who is the subject of the criminal records check or the applicant's representative, the preschool program requesting the criminal records check or its representative, and any court, hearing officer, or other necessary individual in a case dealing with the denial of employment to the applicant.

(E) The department of education shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying circumstances under which a preschool program may hire a person who has been convicted of an offense listed in division (B)(1) of this section but who meets standards in regard to rehabilitation set by the department.

(F) Any person required by division (A)(1) of this section to request a criminal records check shall inform each person, at the time of the person's initial application for employment, that the person is required to provide a set of impressions of the person's fingerprints and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for that position.

(G) As used in this section:

(1) "Applicant" means a person who is under final consideration for appointment or employment in a position with a preschool program as a person responsible for the care, custody, or control of a child, except that "applicant" does not include a person already employed by a board of



education, community school, or chartered nonpublic school in a position of care, custody, or control of a child who is under consideration for a different position with such board or school.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

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

(H) If the board of education of a local school district adopts a resolution requesting the assistance of the educational service center in which the local district has territory in conducting criminal records checks of substitute teachers under this section, the appointing or hiring officer of such educational service center governing board shall serve for purposes of this section as the appointing or hiring officer of the local board in the case of hiring substitute teachers for employment in the local district.

**Sec. 3301.55.** (A) A school district, county board of developmental disabilities, community school, or eligible nonpublic school operating a preschool program shall house the program in buildings that meet the following requirements:

(1) The building is operated by the district, county board of developmental disabilities, community school, or eligible nonpublic school and has been approved by the division of industrial compliance in the department of commerce or a certified municipal, township, or county building department for the purpose of operating a program for preschool children. Any such structure shall be constructed, equipped, repaired, altered, and maintained in accordance with applicable provisions of Chapters 3781. and 3791. and with rules adopted by the board of building standards under Chapter 3781. of the Revised Code for the safety and sanitation of structures erected for this purpose.

(2) The building is in compliance with fire and safety laws and regulations as evidenced by reports of annual school fire and safety inspections as conducted by appropriate local authorities.

(3) The school is in compliance with rules established by the state board of education regarding school food services.

(4) The facility includes not less than thirty-five square feet of indoor space for each child in the program. Safe play space, including both indoor and outdoor play space, totaling not less than sixty square feet for each child using the space at any one time, shall be regularly available and scheduled for use.

(5) First aid facilities and space for temporary placement or isolation of injured or ill children are provided.

(B) Each school district, county board of developmental disabilities, community school, or eligible nonpublic school that operates, or proposes to operate, a preschool program shall submit a building plan including all information specified by the state board of education to the board not later than the first day of September of the school year in which the program is to be initiated. The board shall determine whether the buildings meet the requirements of this section and section 3301.53 of the Revised Code, and notify the superintendent of its determination. If the board determines, on the basis of the building plan or any other information, that the buildings do not meet those requirements, it shall cause the buildings to be inspected by the department of education. The department shall make a report to the superintendent specifying any aspects of the building that are not in compliance with the requirements of this section and section 3301.53 of the Revised Code and the time period

that will be allowed the district, county board of developmental disabilities, or school to meet the requirements.

**Sec. 3301.56.** (A) The director, head teacher, elementary principal, or site administrator who is on site and responsible for supervision of each preschool program shall be responsible for the following:

(1) Ensuring that the health and safety of the children are safeguarded by an organized program of school health services designed to identify child health problems and to coordinate school and community health resources for children, as evidenced by but not limited to:

(a) Requiring immunization and compliance with emergency medical authorization requirements in accordance with rules adopted by the state board of education under section 3301.53 of the Revised Code;

(b) Providing procedures for emergency situations, including fire drills, rapid dismissals, tornado drills, and school safety drills in accordance with section 3737.73 of the Revised Code, and keeping records of such drills or dismissals;

(c) Posting emergency procedures in preschool rooms and making them available to school personnel, children, and parents;

(d) Posting emergency numbers by each telephone;

(e) Supervising grounds, play areas, and other facilities when scheduled for use by children;

(f) Providing first-aid facilities and materials.

(2) Maintaining cumulative records for each child;

(3) Supervising each child's admission, placement, and withdrawal according to established procedures;

(4) Preparing at least once annually for each group of children in the program a roster of names and telephone numbers of parents, guardians, and custodians of children in the group and, on request, furnishing the roster for each group to the parents, guardians, and custodians of children in that group. The director may prepare a similar roster of all children in the program and, on request, make it available to the parents, guardians, and custodians, of children in the program. The director shall not include in either roster the name or telephone number of any parent, guardian, or custodian who requests that the parent's, guardian's, or custodian's name or number not be included, and shall not furnish any roster to any person other than a parent, guardian, or custodian of a child in the program.

(5) Ensuring that clerical and custodial services are provided for the program;

(6) Supervising the instructional program and the daily operation of the program;

(7) Supervising and evaluating preschool staff members according to a planned sequence of observations and evaluation conferences, and supervising nonteaching employees.

(B)(1) In each program the maximum number of children per preschool staff member and the maximum group size by age category of children shall be as follows:

	Maximum	Staff Member/	
Age Group	Group Size	Child Ratio	
Birth to less than 12 months	12	1:5, or 2:12 if	

two preschool staff members are in the room			
12 months to less than 18 months	12	1:6	
18 months to less than 30 months	14	1:7	
30 months to less than 3 years	16	1:8	
3-year-olds	24	1:12	
4- and 5-year-olds not in school	28	1:14	

(2) When age groups are combined, the maximum number of children per preschool staff member shall be determined by the age of the youngest child in the group, except that when no more than one child thirty months of age or older receives child care in a group in which all the other children are in the next older age group, the maximum number of children per child-care staff member and maximum group size requirements of the older age group established under division (B) (1) of this section shall apply.

(3) In a room where children are napping, if all the children are at least eighteen months of age, the maximum number of children per preschool staff member shall, for a period not to exceed one and one-half hours in any twenty-four hour day, be twice the maximum number of children per preschool staff member established under division (B)(1) of this section if all the following criteria are met:

- (a) At least one preschool staff member is present in the room;
- (b) Sufficient preschool staff members are present on the preschool program premises to comply with division (B)(1) of this section;
- (c) Naptime preparations have been completed and the children are resting or napping.

(4) Any accredited program that uses the Montessori method endorsed by the American Montessori society or the association Montessori internationale as its primary method of instruction and is licensed as a preschool program under section 3301.58 of the Revised Code may combine preschool children of ages three to five years old with children enrolled in kindergarten. Notwithstanding anything to the contrary in division (B)(2) of this section, when such age groups are combined, the maximum number of children per preschool staff member shall be twelve and the maximum group size shall be twenty-four children.

(C) In each building in which a preschool program is operated there shall be on the premises, and readily available at all times, at least one employee who has completed a course in first aid and in the prevention, recognition, and management of communicable diseases which is approved by the state department of health, and an employee who has completed a course in child abuse recognition and prevention.

(D) Any parent, guardian, or custodian of a child enrolled in a preschool program shall be permitted unlimited access to the school during its hours of operation to contact the parent's, guardian's, or custodian's child, evaluate the care provided by the program, or evaluate the premises, or for other purposes approved by the director. Upon entering the premises, the parent, guardian, or custodian shall report to the school office.

**Sec. 3301.57.** (A) For the purpose of improving programs, facilities, and implementation of the standards promulgated by the state board of education under section 3301.53 of the Revised Code, the state department of education shall provide consultation and technical assistance to school districts, county boards of developmental disabilities, community schools, and eligible nonpublic schools operating preschool programs or school child programs, and inservice training to preschool staff members, school child program staff members, and nonteaching employees.

(B) The department and the school district board of education, county board of developmental disabilities, community school, or eligible nonpublic school shall jointly monitor each preschool program and each school child program.

If the program receives any grant or other funding from the state or federal government, the department annually shall monitor all reports on attendance, financial support, and expenditures according to provisions for use of the funds.

(C) The department of education, at least once during every twelve-month period of operation of a preschool program or a licensed school child program, shall inspect the program and provide a written inspection report to the superintendent of the school district, county board of developmental disabilities, community school, or eligible nonpublic school. The department may inspect any program more than once, as considered necessary by the department, during any twelve-month period of operation. All inspections may be unannounced. No person shall interfere with any inspection conducted pursuant to this division or to the rules adopted pursuant to sections 3301.52 to 3301.59 of the Revised Code.

Upon receipt of any complaint that a preschool program or a licensed school child program is out of compliance with the requirements in sections 3301.52 to 3301.59 of the Revised Code or the rules adopted under those sections, the department shall investigate and may inspect the program.

(D) If a preschool program or a licensed school child program is determined to be out of compliance with the requirements of sections 3301.52 to 3301.59 of the Revised Code or the rules adopted under those sections, the department of education shall notify the appropriate superintendent, county board of developmental disabilities, community school, or eligible nonpublic school in writing regarding the nature of the violation, what must be done to correct the violation, and by what date the correction must be made. If the correction is not made by the date established by the department, it may commence action under Chapter 119. of the Revised Code to close the program or to revoke the license of the program. If a program does not comply with an order to cease operation issued in accordance with Chapter 119. of the Revised Code, the department shall notify the attorney general, the prosecuting attorney of the county in which the program is located, or the city attorney, village solicitor, or other chief legal officer of the municipal corporation in which the program is located that the program is operating in violation of sections 3301.52 to 3301.59 of the Revised Code or the rules adopted under those sections and in violation of an order to cease operation issued in accordance with Chapter 119. of the Revised Code. Upon receipt of the notification, the attorney general, prosecuting attorney, city attorney, village solicitor, or other chief legal officer shall file a complaint in the court of common pleas of the county in which the program is located requesting the court to issue an order enjoining the program from operating. The court shall grant the requested injunctive relief upon a showing that the program named in the complaint is operating in violation of sections 3301.52 to 3301.59 of the Revised Code or the rules adopted under those sections and in

violation of an order to cease operation issued in accordance with Chapter 119. of the Revised Code.

(E) The department of education shall prepare an annual report on inspections conducted under this section. The report shall include the number of inspections conducted, the number and types of violations found, and the steps taken to address the violations. The department shall file the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives on or before the first day of January of each year, beginning in 1999.

**Sec. 3301.58.** (A) The department of education is responsible for the licensing of preschool programs and school child programs and for the enforcement of sections 3301.52 to 3301.59 of the Revised Code and of any rules adopted under those sections. No school district board of education, county board of developmental disabilities, community school, or eligible nonpublic school shall operate, establish, manage, conduct, or maintain a preschool program without a license issued under this section. A school district board of education, county board of developmental disabilities, community school, or eligible nonpublic school may obtain a license under this section for a school child program. The school district board of education, county board of developmental disabilities, community school, or eligible nonpublic school shall post the license for each preschool program and licensed school child program it operates, establishes, manages, conducts, or maintains in a conspicuous place in the preschool program or licensed school child program that is accessible to parents, custodians, or guardians and employees and staff members of the program at all times when the program is in operation.

(B) Any school district board of education, county board of developmental disabilities, community school, or eligible nonpublic school that desires to operate, establish, manage, conduct, or maintain a preschool program shall apply to the department of education for a license on a form that the department shall prescribe by rule. Any school district board of education, county board of developmental disabilities, community school, or eligible nonpublic school that desires to obtain a license for a school child program shall apply to the department for a license on a form that the department shall prescribe by rule. The department shall provide at no charge to each applicant for a license under this section a copy of the requirements under sections 3301.52 to 3301.59 of the Revised Code and any rules adopted under those sections. The department may establish application fees by rule adopted under Chapter 119. of the Revised Code, and all applicants for a license shall pay any fee established by the department at the time of making an application for a license. All fees collected pursuant to this section shall be paid into the state treasury to the credit of the general revenue fund.

(C) Upon the filing of an application for a license, the department of education shall investigate and inspect the preschool program or school child program to determine the license capacity for each age category of children of the program and to determine whether the program complies with sections 3301.52 to 3301.59 of the Revised Code and any rules adopted under those sections. When, after investigation and inspection, the department of education is satisfied that sections 3301.52 to 3301.59 of the Revised Code and any rules adopted under those sections are complied with by the applicant, the department of education shall issue the program a provisional license as soon as practicable in the form and manner prescribed by the rules of the department. The provisional license shall be valid for one year from the date of issuance unless revoked.

(D) The department of education shall investigate and inspect a preschool program or school child program that has been issued a provisional license at least once during operation under the provisional license. If, after the investigation and inspection, the department of education determines that the requirements of sections 3301.52 to 3301.59 of the Revised Code and any rules adopted under those sections are met by the provisional licensee, the department of education shall issue the program a license. The license shall remain valid unless revoked or the program ceases operations.

(E) The department of education annually shall investigate and inspect each preschool program or school child program licensed under division (D) of this section to determine if the requirements of sections 3301.52 to 3301.59 of the Revised Code and any rules adopted under those sections are met by the program, and shall notify the program of the results.

(F) The license or provisional license shall state the name of the school district board of education, county board of developmental disabilities, community school, or eligible nonpublic school that operates the preschool program or school child program and the license capacity of the program.

(G) The department of education may revoke the license of any preschool program or school child program that is not in compliance with the requirements of sections 3301.52 to 3301.59 of the Revised Code and any rules adopted under those sections.

(H) If the department of education revokes a license, the department shall not issue a license to the program within two years from the date of the revocation. All actions of the department with respect to licensing preschool programs and school child programs shall be in accordance with Chapter 119. of the Revised Code.

**Sec. 3301.922.** The department of education shall issue an annual report on the participation by public and chartered nonpublic schools in the option of sections 3313.674, 3314.15, and 3326.26 of the Revised Code to screen students for body mass index and weight status category. The department shall include in the report any data regarding student health and wellness collected in conjunction with those sections. The department shall submit each report to the governor and the general assembly.

**Sec. 3301.923.** The department of education shall establish a clearinghouse of best practices that schools may use to promote student health. The department shall update the clearinghouse as necessary.

**Sec. 3302.02.** Not later than one year after the adoption of rules under division (D) of section 3301.0712 of the Revised Code and at least every sixth year thereafter, upon recommendations of the superintendent of public instruction, the state board of education shall establish a set of performance indicators that considered as a unit will be used as one of the performance categories for the report cards required by section 3302.03 of the Revised Code. In establishing these indicators, the superintendent shall consider inclusion of student performance on assessments prescribed under section 3301.0710 or 3301.0712 of the Revised Code, rates of student improvement on such assessments, the breadth of coursework available within the district, and other indicators of student success.

Beginning with the report card for the 2014-2015 school year, the performance indicators shall include an indicator that reflects the level of services provided to, and the performance of, students identified as gifted under Chapter 3324. of the Revised Code. The indicator shall include the

performance of students identified as gifted on state assessments and value-added growth measure disaggregated for students identified as gifted.

For the 2013-2014 school year, except as otherwise provided in this section, for any indicator based on the percentage of students attaining a proficient score on the assessments prescribed by divisions (A) and (B)(1) of section 3301.0710 of the Revised Code, a school district or building shall be considered to have met the indicator if at least eighty per cent of the tested students attain a score of proficient or higher on the assessment. A school district or building shall be considered to have met the indicator for the assessments prescribed by division (B)(1) of section 3301.0710 of the Revised Code and only as administered to eleventh grade students, if at least eighty-five per cent of the tested students attain a score of proficient or higher on the assessment.

The state board shall adopt rules, under Chapter 119. of the Revised Code, to establish proficiency percentages to meet each indicator that is based on a state assessment, prescribed under section 3301.0710 or 3301.0712 of the Revised Code, for the 2014-2015 school year and thereafter by the following dates:

- (A) Not later than December 31, 2015, for the 2014-2015 school year;
- (B) Not later than July 1, 2016, for the 2015-2016 school year;
- (C) Not later than July 1, 2017, for the 2016-2017 school year, and for each school year thereafter.

**Sec. 3302.03.** Annually, not later than the fifteenth day of September or the preceding Friday when that day falls on a Saturday or Sunday, the department of education shall assign a letter grade for overall academic performance and for each separate performance measure for each school district, and each school building in a district, in accordance with this section. The state board shall adopt rules pursuant to Chapter 119. of the Revised Code to establish performance criteria for each letter grade and prescribe a method by which the department assigns each letter grade. For a school building to which any of the performance measures do not apply, due to grade levels served by the building, the state board shall designate the performance measures that are applicable to the building and that must be calculated separately and used to calculate the building's overall grade. The department shall issue annual report cards reflecting the performance of each school district, each building within each district, and for the state as a whole using the performance measures and letter grade system described in this section. The department shall include on the report card for each district and each building within each district the most recent two-year trend data in student achievement for each subject and each grade.

(A)(1) For the 2012-2013 school year, the department shall issue grades as described in division (E) of this section for each of the following performance measures:

- (a) Annual measurable objectives;
- (b) Performance index score for a school district or building. Grades shall be awarded as a percentage of the total possible points on the performance index system as adopted by the state board. In adopting benchmarks for assigning letter grades under division (A)(1)(b) of this section, the state board of education shall designate ninety per cent or higher for an "A," at least seventy per cent but not more than eighty per cent for a "C," and less than fifty per cent for an "F."

(c) The extent to which the school district or building meets each of the applicable performance indicators established by the state board under section 3302.02 of the Revised Code and

the percentage of applicable performance indicators that have been achieved. In adopting benchmarks for assigning letter grades under division (A)(1)(c) of this section, the state board shall designate ninety per cent or higher for an "A."

(d) The four- and five-year adjusted cohort graduation rates.

In adopting benchmarks for assigning letter grades under division (A)(1)(d), (B)(1)(d), or (C)(1)(d) of this section, the department shall designate a four-year adjusted cohort graduation rate of ninety-three per cent or higher for an "A" and a five-year cohort graduation rate of ninety-five per cent or higher for an "A."

(e) The overall score under the value-added progress dimension of a school district or building, for which the department shall use up to three years of value-added data as available. The letter grade assigned for this growth measure shall be as follows:

(i) A score that is at least two standard errors of measure above the mean score shall be designated as an "A."

(ii) A score that is at least one standard error of measure but less than two standard errors of measure above the mean score shall be designated as a "B."

(iii) A score that is less than one standard error of measure above the mean score but greater than or equal to one standard error of measure below the mean score shall be designated as a "C."

(iv) A score that is not greater than one standard error of measure below the mean score but is greater than or equal to two standard errors of measure below the mean score shall be designated as a "D."

(v) A score that is not greater than two standard errors of measure below the mean score shall be designated as an "F."

Whenever the value-added progress dimension is used as a graded performance measure, whether as an overall measure or as a measure of separate subgroups, the grades for the measure shall be calculated in the same manner as prescribed in division (A)(1)(e) of this section.

(f) The value-added progress dimension score for a school district or building disaggregated for each of the following subgroups: students identified as gifted, students with disabilities, and students whose performance places them in the lowest quintile for achievement on a statewide basis. Each subgroup shall be a separate graded measure.

(2) Not later than April 30, 2013, the state board of education shall adopt a resolution describing the performance measures, benchmarks, and grading system for the 2012-2013 school year and, not later than June 30, 2013, shall adopt rules in accordance with Chapter 119. of the Revised Code that prescribe the methods by which the performance measures under division (A)(1) of this section shall be assessed and assigned a letter grade, including performance benchmarks for each letter grade.

At least forty-five days prior to the state board's adoption of rules to prescribe the methods by which the performance measures under division (A)(1) of this section shall be assessed and assigned a letter grade, the department shall conduct a public presentation before the standing committees of the house of representatives and the senate that consider education legislation describing such methods, including performance benchmarks.

(3) There shall not be an overall letter grade for a school district or building for the 2012-2013 school year.



(B)(1) For the 2013-2014 and 2014-2015 school years, the department shall issue grades as described in division (E) of this section for each of the following performance measures:

(a) Annual measurable objectives;

(b) Performance index score for a school district or building. Grades shall be awarded as a percentage of the total possible points on the performance index system as created by the department. In adopting benchmarks for assigning letter grades under division (B)(1)(b) of this section, the state board shall designate ninety per cent or higher for an "A," at least seventy per cent but not more than eighty per cent for a "C," and less than fifty per cent for an "F."

(c) The extent to which the school district or building meets each of the applicable performance indicators established by the state board under section 3302.03 of the Revised Code and the percentage of applicable performance indicators that have been achieved. In adopting benchmarks for assigning letter grades under division (B)(1)(c) of this section, the state board shall designate ninety per cent or higher for an "A."

(d) The four- and five-year adjusted cohort graduation rates;

(e) The overall score under the value-added progress dimension of a school district or building, for which the department shall use up to three years of value-added data as available.

(f) The value-added progress dimension score for a school district or building disaggregated for each of the following subgroups: students identified as gifted in superior cognitive ability and specific academic ability fields under Chapter 3324. of the Revised Code, students with disabilities, and students whose performance places them in the lowest quintile for achievement on a statewide basis. Each subgroup shall be a separate graded measure.

(g) Whether a school district or building is making progress in improving literacy in grades kindergarten through three, as determined using a method prescribed by the state board. The state board shall adopt rules to prescribe benchmarks and standards for assigning grades to districts and buildings for purposes of division (B)(1)(g) of this section. In adopting benchmarks for assigning letter grades under divisions (B)(1)(g) and (C)(1)(g) of this section, the state board shall determine progress made based on the reduction in the total percentage of students scoring below grade level, or below proficient, compared from year to year on the reading and writing diagnostic assessments administered under section 3301.0715 of the Revised Code and the third grade English language arts assessment under section 3301.0710 of the Revised Code, as applicable. The state board shall designate for a "C" grade a value that is not lower than the statewide average value for this measure. No grade shall be issued under divisions (B)(1)(g) and (C)(1)(g) of this section for a district or building in which less than five per cent of students have scored below grade level on the diagnostic assessment administered to students in kindergarten under division (B)(1) of section 3313.608 of the Revised Code.

(h) For a high mobility school district or building, an additional value-added progress dimension score. For this measure, the department shall use value-added data from the most recent school year available and shall use assessment scores for only those students to whom the district or building has administered the assessments prescribed by section 3301.0710 of the Revised Code for each of the two most recent consecutive school years.

As used in this division, "high mobility school district or building" means a school district or building where at least twenty-five per cent of its total enrollment is made up of students who have

attended that school district or building for less than one year.

(2) In addition to the graded measures in division (B)(1) of this section, the department shall include on a school district's or building's report card all of the following without an assigned letter grade:

(a) The percentage of students enrolled in a district or building participating in advanced placement classes and the percentage of those students who received a score of three or better on advanced placement examinations;

(b) The number of a district's or building's students who have earned at least three college credits through dual enrollment or advanced standing programs, such as the post-secondary enrollment options program under Chapter 3365. of the Revised Code and state-approved career-technical courses offered through dual enrollment or statewide articulation, that appear on a student's transcript or other official document, either of which is issued by the institution of higher education from which the student earned the college credit. The credits earned that are reported under divisions (B)(2)(b) and (C)(2)(c) of this section shall not include any that are remedial or developmental and shall include those that count toward the curriculum requirements established for completion of a degree.

(c) The percentage of students enrolled in a district or building who have taken a national standardized test used for college admission determinations and the percentage of those students who are determined to be remediation-free in accordance with standards adopted under division (F) of section 3345.061 of the Revised Code;

(d) The percentage of the district's or the building's students who receive industry-recognized credentials as approved under section 3313.6113 of the Revised Code.

(e) The percentage of students enrolled in a district or building who are participating in an international baccalaureate program and the percentage of those students who receive a score of four or better on the international baccalaureate examinations.

(f) The percentage of the district's or building's students who receive an honors diploma under division (B) of section 3313.61 of the Revised Code.

(3) Not later than December 31, 2013, the state board shall adopt rules in accordance with Chapter 119. of the Revised Code that prescribe the methods by which the performance measures under divisions (B)(1)(f) and (B)(1)(g) of this section will be assessed and assigned a letter grade, including performance benchmarks for each grade.

At least forty-five days prior to the state board's adoption of rules to prescribe the methods by which the performance measures under division (B)(1) of this section shall be assessed and assigned a letter grade, the department shall conduct a public presentation before the standing committees of the house of representatives and the senate that consider education legislation describing such methods, including performance benchmarks.

(4) There shall not be an overall letter grade for a school district or building for the 2013-2014, 2014-2015, 2015-2016, and 2016-2017 school years.

(C)(1) For the 2014-2015 school year and each school year thereafter, the department shall issue grades as described in division (E) of this section for each of the performance measures prescribed in division (C)(1) of this section. The graded measures are as follows:

(a) Annual measurable objectives;

(b) Performance index score for a school district or building. Grades shall be awarded as a percentage of the total possible points on the performance index system as created by the department. In adopting benchmarks for assigning letter grades under division (C)(1)(b) of this section, the state board shall designate ninety per cent or higher for an "A," at least seventy per cent but not more than eighty per cent for a "C," and less than fifty per cent for an "F."

(c) The extent to which the school district or building meets each of the applicable performance indicators established by the state board under section 3302.03 of the Revised Code and the percentage of applicable performance indicators that have been achieved. In adopting benchmarks for assigning letter grades under division (C)(1)(c) of this section, the state board shall designate ninety per cent or higher for an "A."

(d) The four- and five-year adjusted cohort graduation rates;

(e) The overall score under the value-added progress dimension, or another measure of student academic progress if adopted by the state board, of a school district or building, for which the department shall use up to three years of value-added data as available.

In adopting benchmarks for assigning letter grades for overall score on value-added progress dimension under division (C)(1)(e) of this section, the state board shall prohibit the assigning of a grade of "A" for that measure unless the district's or building's grade assigned for value-added progress dimension for all subgroups under division (C)(1)(f) of this section is a "B" or higher.

For the metric prescribed by division (C)(1)(e) of this section, the state board may adopt a student academic progress measure to be used instead of the value-added progress dimension. If the state board adopts such a measure, it also shall prescribe a method for assigning letter grades for the new measure that is comparable to the method prescribed in division (A)(1)(e) of this section.

(f) The value-added progress dimension score of a school district or building disaggregated for each of the following subgroups: students identified as gifted in superior cognitive ability and specific academic ability fields under Chapter 3324. of the Revised Code, students with disabilities, and students whose performance places them in the lowest quintile for achievement on a statewide basis, as determined by a method prescribed by the state board. Each subgroup shall be a separate graded measure.

The state board may adopt student academic progress measures to be used instead of the value-added progress dimension. If the state board adopts such measures, it also shall prescribe a method for assigning letter grades for the new measures that is comparable to the method prescribed in division (A)(1)(e) of this section.

(g) Whether a school district or building is making progress in improving literacy in grades kindergarten through three, as determined using a method prescribed by the state board. The state board shall adopt rules to prescribe benchmarks and standards for assigning grades to a district or building for purposes of division (C)(1)(g) of this section. The state board shall designate for a "C" grade a value that is not lower than the statewide average value for this measure. No grade shall be issued under division (C)(1)(g) of this section for a district or building in which less than five per cent of students have scored below grade level on the kindergarten diagnostic assessment under division (B)(1) of section 3313.608 of the Revised Code.

(h) For a high mobility school district or building, an additional value-added progress dimension score. For this measure, the department shall use value-added data from the most recent

school year available and shall use assessment scores for only those students to whom the district or building has administered the assessments prescribed by section 3301.0710 of the Revised Code for each of the two most recent consecutive school years.

As used in this division, "high mobility school district or building" means a school district or building where at least twenty-five per cent of its total enrollment is made up of students who have attended that school district or building for less than one year.

(2) In addition to the graded measures in division (C)(1) of this section, the department shall include on a school district's or building's report card all of the following without an assigned letter grade:

(a) The percentage of students enrolled in a district or building who have taken a national standardized test used for college admission determinations and the percentage of those students who are determined to be remediation-free in accordance with the standards adopted under division (F) of section 3345.061 of the Revised Code;

(b) The percentage of students enrolled in a district or building participating in advanced placement classes and the percentage of those students who received a score of three or better on advanced placement examinations;

(c) The percentage of a district's or building's students who have earned at least three college credits through advanced standing programs, such as the college credit plus program under Chapter 3365. of the Revised Code and state-approved career-technical courses offered through dual enrollment or statewide articulation, that appear on a student's college transcript issued by the institution of higher education from which the student earned the college credit. The credits earned that are reported under divisions (B)(2)(b) and (C)(2)(c) of this section shall not include any that are remedial or developmental and shall include those that count toward the curriculum requirements established for completion of a degree.

(d) The percentage of the district's or building's students who receive an honor's diploma under division (B) of section 3313.61 of the Revised Code;

(e) The percentage of the district's or building's students who receive industry-recognized credentials as approved under section 3313.6113 of the Revised Code;

(f) The percentage of students enrolled in a district or building who are participating in an international baccalaureate program and the percentage of those students who receive a score of four or better on the international baccalaureate examinations;

(g) The results of the college and career-ready assessments administered under division (B) (1) of section 3301.0712 of the Revised Code.

(3) The state board shall adopt rules pursuant to Chapter 119. of the Revised Code that establish a method to assign an overall grade for a school district or school building for the 2017-2018 school year and each school year thereafter. The rules shall group the performance measures in divisions (C)(1) and (2) of this section into the following components:

(a) Gap closing, which shall include the performance measure in division (C)(1)(a) of this section;

(b) Achievement, which shall include the performance measures in divisions (C)(1)(b) and (c) of this section;

(c) Progress, which shall include the performance measures in divisions (C)(1)(e) and (f) of

this section;

(d) Graduation, which shall include the performance measure in division (C)(1)(d) of this section;

(e) Kindergarten through third-grade literacy, which shall include the performance measure in division (C)(1)(g) of this section;

(f) Prepared for success, which shall include the performance measures in divisions (C)(2)(a), (b), (c), (d), (e), and (f) of this section. The state board shall develop a method to determine a grade for the component in division (C)(3)(f) of this section using the performance measures in divisions (C)(2)(a), (b), (c), (d), (e), and (f) of this section. When available, the state board may incorporate the performance measure under division (C)(2)(g) of this section into the component under division (C)(3)(f) of this section. When determining the overall grade for the prepared for success component prescribed by division (C)(3)(f) of this section, no individual student shall be counted in more than one performance measure. However, if a student qualifies for more than one performance measure in the component, the state board may, in its method to determine a grade for the component, specify an additional weight for such a student that is not greater than or equal to 1.0. In determining the overall score under division (C)(3)(f) of this section, the state board shall ensure that the pool of students included in the performance measures aggregated under that division are all of the students included in the four- and five-year adjusted graduation cohort.

In the rules adopted under division (C)(3) of this section, the state board shall adopt a method for determining a grade for each component in divisions (C)(3)(a) to (f) of this section. The state board also shall establish a method to assign an overall grade of "A," "B," "C," "D," or "F" using the grades assigned for each component. The method the state board adopts for assigning an overall grade shall give equal weight to the components in divisions (C)(3)(b) and (c) of this section.

At least forty-five days prior to the state board's adoption of rules to prescribe the methods for calculating the overall grade for the report card, as required by this division, the department shall conduct a public presentation before the standing committees of the house of representatives and the senate that consider education legislation describing the format for the report card, weights that will be assigned to the components of the overall grade, and the method for calculating the overall grade.

(D) On or after July 1, 2015, the state board may develop a measure of student academic progress for high school students using only data from assessments in English language arts and mathematics. If the state board develops this measure, each school district and applicable school building shall be assigned a separate letter grade for it not sooner than the 2017-2018 school year. The district's or building's grade for that measure shall not be included in determining the district's or building's overall letter grade.

(E) The letter grades assigned to a school district or building under this section shall be as follows:

- (1) "A" for a district or school making excellent progress;
- (2) "B" for a district or school making above average progress;
- (3) "C" for a district or school making average progress;
- (4) "D" for a district or school making below average progress;
- (5) "F" for a district or school failing to meet minimum progress.

(F) When reporting data on student achievement and progress, the department shall

disaggregate that data according to the following categories:

- (1) Performance of students by grade-level;
- (2) Performance of students by race and ethnic group;
- (3) Performance of students by gender;
- (4) Performance of students grouped by those who have been enrolled in a district or school for three or more years;
- (5) Performance of students grouped by those who have been enrolled in a district or school for more than one year and less than three years;
- (6) Performance of students grouped by those who have been enrolled in a district or school for one year or less;
- (7) Performance of students grouped by those who are economically disadvantaged;
- (8) Performance of students grouped by those who are enrolled in a conversion community school established under Chapter 3314. of the Revised Code;
- (9) Performance of students grouped by those who are classified as limited English proficient;
- (10) Performance of students grouped by those who have disabilities;
- (11) Performance of students grouped by those who are classified as migrants;
- (12) Performance of students grouped by those who are identified as gifted in superior cognitive ability and the specific academic ability fields of reading and math pursuant to Chapter 3324. of the Revised Code. In disaggregating specific academic ability fields for gifted students, the department shall use data for those students with specific academic ability in math and reading. If any other academic field is assessed, the department shall also include data for students with specific academic ability in that field as well.
- (13) Performance of students grouped by those who perform in the lowest quintile for achievement on a statewide basis, as determined by a method prescribed by the state board.

The department may disaggregate data on student performance according to other categories that the department determines are appropriate. To the extent possible, the department shall disaggregate data on student performance according to any combinations of two or more of the categories listed in divisions (F)(1) to (13) of this section that it deems relevant.

In reporting data pursuant to division (F) of this section, the department shall not include in the report cards any data statistical in nature that is statistically unreliable or that could result in the identification of individual students. For this purpose, the department shall not report student performance data for any group identified in division (F) of this section that contains less than ten students. If the department does not report student performance data for a group because it contains less than ten students, the department shall indicate on the report card that is why data was not reported.

(G) The department may include with the report cards any additional education and fiscal performance data it deems valuable.

(H) The department shall include on each report card a list of additional information collected by the department that is available regarding the district or building for which the report card is issued. When available, such additional information shall include student mobility data disaggregated by race and socioeconomic status, college enrollment data, and the reports prepared under section

3302.031 of the Revised Code.

The department shall maintain a site on the world wide web. The report card shall include the address of the site and shall specify that such additional information is available to the public at that site. The department shall also provide a copy of each item on the list to the superintendent of each school district. The district superintendent shall provide a copy of any item on the list to anyone who requests it.

(I)(1)(a) Except as provided in division (I)(1)(b) of this section, for any district that sponsors a conversion community school under Chapter 3314. of the Revised Code, the department shall combine data regarding the academic performance of students enrolled in the community school with comparable data from the schools of the district for the purpose of determining the performance of the district as a whole on the report card issued for the district under this section or section 3302.033 of the Revised Code.

(b) The department shall not combine data from any conversion community school that a district sponsors if a majority of the students enrolled in the conversion community school are enrolled in a dropout prevention and recovery program that is operated by the school, as described in division (A)(4)(a) of section 3314.35 of the Revised Code. The department shall include as an addendum to the district's report card the ratings and performance measures that are required under section 3314.017 of the Revised Code for any community school to which division (I)(1)(b) of this section applies. This addendum shall include, at a minimum, the data specified in divisions (C)(1)(a), (C)(2), and (C)(3) of section 3314.017 of the Revised Code.

(2) Any district that leases a building to a community school located in the district or that enters into an agreement with a community school located in the district whereby the district and the school endorse each other's programs may elect to have data regarding the academic performance of students enrolled in the community school combined with comparable data from the schools of the district for the purpose of determining the performance of the district as a whole on the district report card. Any district that so elects shall annually file a copy of the lease or agreement with the department.

(3) Any municipal school district, as defined in section 3311.71 of the Revised Code, that sponsors a community school located within the district's territory, or that enters into an agreement with a community school located within the district's territory whereby the district and the community school endorse each other's programs, may exercise either or both of the following elections:

(a) To have data regarding the academic performance of students enrolled in that community school combined with comparable data from the schools of the district for the purpose of determining the performance of the district as a whole on the district's report card;

(b) To have the number of students attending that community school noted separately on the district's report card.

The election authorized under division (I)(3)(a) of this section is subject to approval by the governing authority of the community school.

Any municipal school district that exercises an election to combine or include data under division (I)(3) of this section, by the first day of October of each year, shall file with the department documentation indicating eligibility for that election, as required by the department.

(J) The department shall include on each report card the percentage of teachers in the district or building who are highly qualified, as defined by the No Child Left Behind Act of 2001, and a comparison of that percentage with the percentages of such teachers in similar districts and buildings.

(K)(1) In calculating English language arts, mathematics, or science assessment passage rates used to determine school district or building performance under this section, the department shall include all students taking an assessment with accommodation or to whom an alternate assessment is administered pursuant to division (C)(1) or (3) of section 3301.0711 of the Revised Code.

(2) In calculating performance index scores, rates of achievement on the performance indicators established by the state board under section 3302.02 of the Revised Code, and annual measurable objectives for determining adequate yearly progress for school districts and buildings under this section, the department shall do all of the following:

(a) Include for each district or building only those students who are included in the ADM certified for the first full school week of October and are continuously enrolled in the district or building through the time of the spring administration of any assessment prescribed by division (A) (1) or (B)(1) of section 3301.0710 or division (B) of section 3301.0712 of the Revised Code that is administered to the student's grade level;

(b) Include cumulative totals from both the fall and spring administrations of the third grade English language arts achievement assessment;

(c) Except as required by the No Child Left Behind Act of 2001, exclude for each district or building any limited English proficient student who has been enrolled in United States schools for less than one full school year.

(L) Beginning with the 2015-2016 school year and at least once every three years thereafter, the state board of education shall review and may adjust the benchmarks for assigning letter grades to the performance measures and components prescribed under divisions (C)(3) and (D) of this section.

**Sec. 3302.036.** (A) Notwithstanding anything in the Revised Code to the contrary, the department of education shall not assign an overall letter grade under division (C)(3) of section 3302.03 of the Revised Code for any school district or building for the 2014-2015, 2015-2016, or 2016-2017 school years, may, at the discretion of the state board of education, not assign an individual grade to any component prescribed under division (C)(3) of section 3302.03 of the Revised Code, and shall not rank school districts, community schools established under Chapter 3314. of the Revised Code, or STEM schools established under Chapter 3326. of the Revised Code under section 3302.21 of the Revised Code for those school years. The report card ratings issued for the 2014-2015, 2015-2016, or 2016-2017 school years shall not be considered in determining whether a school district or a school is subject to sanctions or penalties. However, the report card ratings of any previous or subsequent years shall be considered in determining whether a school district or building is subject to sanctions or penalties. Accordingly, the report card ratings for the 2014-2015, 2015-2016, or 2016-2017 school years shall have no effect in determining sanctions or penalties, but shall not create a new starting point for determinations that are based on ratings over multiple years.

(B) The provisions from which a district or school is exempt under division (A) of this section shall be the following:

(1) Any restructuring provisions established under this chapter, except as required under the



"No Child Left Behind Act of 2001";

(2) Provisions for the Columbus city school pilot project under section 3302.042 of the Revised Code;

(3) Provisions for academic distress commissions under former section 3302.10 of the Revised Code as it existed prior to ~~the effective date of this amendment~~ October 15, 2015. The provisions of this section do not apply to academic distress commissions under the version of that section as it exists on or after ~~the effective date of this amendment~~ October 15, 2015.

(4) Provisions prescribing new buildings where students are eligible for the educational choice scholarships under section 3310.03 of the Revised Code;

(5) Provisions defining "challenged school districts" in which new start-up community schools may be located, as prescribed in section 3314.02 of the Revised Code;

(6) Provisions prescribing community school closure requirements under section 3314.35 or 3314.351 of the Revised Code.

(C) Notwithstanding anything in the Revised Code to the contrary and except as provided in Section 3 of H.B. 7 of the 131st general assembly, no school district, community school, or STEM school shall utilize at any time during a student's academic career a student's score on any assessment administered under division (A) of section 3301.0710 or division (B)(2) of section 3301.0712 of the Revised Code in the 2014-2015, 2015-2016, or 2016-2017 school ~~year~~ years as a factor in any decision to promote or to deny the student promotion to a higher grade level or in any decision to grant course credit. No individual student score reports on such assessments administered in the 2014-2015, 2015-2016, or 2016-2017 school years shall be released, except to a student's school district or school or to the student or the student's parent or guardian.

**Sec. 3302.05.** The state board of education shall adopt rules freeing school districts from specified state mandates if one of the following applies:

(A) For the 2011-2012 school year, the school district was declared to be excellent under section 3302.03 of the Revised Code, as that section existed prior to March 22, 2013, and had above expected growth in the overall value-added measure.

(B) For the 2012-2013 school year, the school district received a grade of "A" for the number of performance indicators met under division (A)(1)(c) of section 3302.03 of the Revised Code and for the value-added dimension under division (A)(1)(e) of section 3302.03 of the Revised Code.

(C) For the 2013-2014, 2014-2015, or 2015-2016 school ~~year~~ years, the school district received a grade of "A" for the number of performance indicators met under division (B)(1)(c) of section 3302.03 of the Revised Code and for the value-added dimension under division (B)(1)(e) of section 3302.03 of the Revised Code.

(D) For the 2016-2017 school year and for each school year thereafter, the school district received an overall grade of "A" under division (C)(3) of section 3302.03 of the Revised Code.

Any mandates included in the rules shall be only those statutes or rules pertaining to state education requirements. The rules shall not exempt districts from any operating standard adopted under division (D)(3) of section 3301.07 of the Revised Code.

**Sec. 3302.15.** (A) Notwithstanding anything to the contrary in Chapter 3301. or 3302. of the Revised Code, the board of education of a school district, governing authority of a community school established under Chapter 3314. of the Revised Code, or governing body of a STEM school

established under Chapter 3326. of the Revised Code may submit to the superintendent of public instruction, during the 2015-2016 school year, a request for a waiver for up to five school years from administering the state achievement assessments required under sections 3301.0710 and 3301.0712 of the Revised Code and related requirements specified under division (B)(2) of this section. A district or school that obtains a waiver under this section shall use the alternative assessment system, as proposed by the district or school and as approved by the state superintendent, in place of the assessments required under sections 3301.0710 and 3301.0712 of the Revised Code.

(B)(1) A request for a waiver under this section shall contain the following:

(a) A timeline to develop and implement an alternative assessment system for the district or school;

(b) An overview of the proposed innovative educational programs or strategies to be offered by the district or school;

(c) An overview of the proposed alternative assessment system;

(d) An overview of planning details that have been implemented or proposed and any documented support from educational networks, established educational consultants, state institutions of higher education as defined under section 3345.011 of the Revised Code, and employers or workforce development partners;

(e) An overview of the capacity to implement the alternative assessments, conduct the evaluation of teachers with alternative assessments, and the reporting of student achievement data with alternative assessments for the purpose of the report card ratings prescribed under section 3302.03 of the Revised Code, all of which shall include any prior success in implementing innovative educational programs or strategies, teaching practices, or assessment practices;

(f) An acknowledgement by the district or school of federal funding that may be impacted by obtaining a waiver.

(2) The request for a waiver shall indicate the extent to which exemptions from state or federal requirements regarding the administration of the assessments required under sections 3301.0710 and 3301.0712 of the Revised Code are sought. Such items from which a district or school may be exempt are as follows:

(a) The required administration of state assessments under sections 3301.0710 and 3301.0712 of the Revised Code;

(b) The evaluation of teachers and administrators under sections 3311.80, 3311.84, division (D) of 3319.02, and 3319.111 of the Revised Code;

(c) The reporting of student achievement data for the purpose of the report card ratings prescribed under section 3302.03 of the Revised Code.

(C) Each request for a waiver shall include the signature of all of the following:

(1) The superintendent of the school district or the equivalent for a community school or STEM school;

(2) The president of the district board or the equivalent for a community school or STEM school;

(3) The presiding officer of the labor organization representing the district's or school's teachers, if any;

(4) If the district's or school's teachers are not represented by a labor organization, the

principal and a majority of the administrators and teachers of the district or school.

(D) Upon receipt of a request for a waiver, the state superintendent shall approve or deny the waiver or may request additional information from the district or school. The state superintendent shall not grant waivers to more than a total of ten districts, community schools, or STEM schools, based on requests for a waiver received during the 2015-2016 school year. A waiver granted to a district or school shall be contingent on an ongoing review and evaluation by the state superintendent of the program for which the waiver was granted.

(E)(1) For the purpose of this section, the department of education shall seek a waiver from the testing requirements prescribed under the "No Child Left Behind Act of 2001," if necessary to implement this section.

(2) The department shall create a mechanism for the comparison of the alternative assessments prescribed under division (B) of this section and the assessments required under sections 3301.0710 and 3301.0712 of the Revised Code as it relates to the evaluation of teachers and student achievement data for the purpose of state report card ratings.

(F) For purposes of this section, "innovative educational program or strategy" means a program or strategy using a new idea or method aimed at increasing student engagement and preparing students to be college or career ready.

**Sec. 3304.171.**

**Sec. 3305.052.** (A) The state retirement system that covers the position held by an employee of a public institution of higher education who makes an election under division (B)(2) or (3) of section 3305.05 or division (B) of section 3305.051 of the Revised Code to participate in the public institution's alternative retirement plan shall, not later than thirty days after the date on which the certified copy of the employee's election is filed with the state retirement system under that section, do one of the following:

(1) If the employee was participating in a defined benefit plan as provided in sections 145.201 to 145.79, sections 3307.50 to 3307.79, or sections 3309.18 to 3309.76 of the Revised Code, pay to the provider of the investment option selected by the employee any employee and employer contributions made to the retirement system by or on behalf of that employee for the period beginning on the employee's starting day of employment and ending on the day before the day on which contributions commence under an alternative retirement plan, less the amount due the retirement system pursuant to division (D) of section 3305.06 of the Revised Code for that period.

(2) If the employee was participating in a defined contribution plan as provided in section 145.81, 3307.81, or 3309.81 of the Revised Code, pay to the provider of the investment option selected by the employee the amount on deposit in the employee's individual account for the period beginning on the employee's starting day of employment and ending on the day before the day on which contributions commence under an alternative retirement plan.

(B) The state retirement system that covers the position held by an employee of a public institution of higher education who makes an election under division (B)(1) of section 3305.05 or division (C) of section 3305.051 of the Revised Code to participate in the public institution's alternative retirement plan shall, not later than thirty days after the date on which a certified copy of the employee's election is filed with the state retirement system under that section, do one of the following:

(1) If the employee was participating in a defined benefit plan as provided in sections 145.201 to 145.79, sections 3307.50 to 3307.79, or sections 3309.18 to 3309.70 of the Revised Code, pay to the provider of the investment option selected by the employee any employee and employer contributions made to the retirement system by or on behalf of that employee for any period commencing after the date on which the election becomes irrevocable under division (C)(1) of section 3305.05 of the Revised Code or the applicable date described in division (C)(2)(a) or (b) of section 3305.051 of the Revised Code and ending on the day before the day on which contributions commence under an alternative retirement plan, less the amount due the retirement system pursuant to division (D) of section 3305.06 of the Revised Code for that period.

(2) If the employee was participating in a defined contribution plan as provided in section 145.81, 3307.81, or 3309.81 of the Revised Code, pay to the provider of the investment option selected by the employee the amount on deposit in the employee's individual account for the period commencing after the date on which the election becomes irrevocable under division (C)(1) of section 3305.05 of the Revised Code and ending on the day before the day on which contributions commence under an alternative retirement plan.

**Sec. 3305.062.**

**Sec. 3305.08.** Any payment, benefit, or other right accruing to any electing employee under a contract entered into for purposes of an alternative retirement plan and all moneys, investments, and income of those contracts are exempt from any state tax, except the tax imposed by section 5747.02 of the Revised Code, are exempt from any county, municipal, or other local tax, except income taxes imposed pursuant to section 5748.02, 5748.08, or 5748.09 of the Revised Code, and, except as provided in sections 3105.171, 3105.65, 3115.501, 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, 3305.09, and 3305.12 of the Revised Code, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency law, or other process of law, and shall be unassignable except as specifically provided in this section and sections 3105.171, 3105.65, 3119.80, 3119.81, 3121.02, 3121.03, 3115.501, and 3123.06 of the Revised Code or in any contract the electing employee has entered into for purposes of an alternative retirement plan.

**Sec. 3305.21.** (A) As used in this section, "alternate payee," "benefit," "lump sum payment," and "participant" have the same meanings as in section 3105.80 of the Revised Code.

(B) On receipt of an order issued under section 3105.171 or 3105.65 of the Revised Code, an entity providing a participant's alternative retirement plan shall determine whether the order meets the requirements of sections 3105.80 to 3105.90 of the Revised Code. The entity shall retain in the participant's record an order the entity determines meets the requirements. Not later than ten days after receipt, the entity shall return to the court that issued the order any order the entity determines does not meet the requirements.

(C) The entity shall comply with an order retained under division (B) of this section at the following times as appropriate:

(1) If the participant has applied for or is receiving a benefit or has applied for but not yet received a lump sum payment, as soon as practicable;

(2) If the participant has not applied for a benefit or lump sum payment, on application by the participant for a benefit or lump sum payment.

(D) If an entity providing an alternative retirement plan is required to transfer a participant's

account balance to an entity providing an alternative retirement plan that is not named in the order, the transferring entity shall do both of the following:

(1) Notify the court that issued the order by sending the court a copy of the order and the name and address of the entity to which the transfer was made.

(2) Send a copy of the order to the entity to which the transfer was made.

(E) An entity that receives a participant's account balance and a copy of an order as provided in division (D) of this section, shall administer the order as if it were the entity named in the order.

(F) If a participant's benefit or lump sum payment is or will be subject to more than one order described in section 3105.81 of the Revised Code or to an order described in section 3105.81 of the Revised Code and a withholding order under section 3111.23 or 3113.21 of the Revised Code, the entity providing the alternative retirement plan shall, after determining that the amounts that are or will be withheld will cause the benefit or lump sum payment to fall below the limits described in section 3105.85 of the Revised Code, do all of the following:

(1) Establish, in accordance with division (G) of this section and subject to the limits described in section 3105.85 of the Revised Code, the priority in which the orders are or will be paid;

(2) Reduce the amount paid to an alternate payee based on the priority established under division (F)(1) of this section;

(3) Notify, by regular mail, a participant and alternate payee of any action taken under this division.

(G) A withholding or deduction notice issued under section 3111.23 or 3113.21 of the Revised Code or an order described in section 3115.501 of the Revised Code has priority over all other orders and shall be complied with in accordance with child support enforcement laws. All other orders are entitled to priority in order of earliest retention by the entity providing a participant's alternative retirement plan. The entity is not to retain an order that provides for the division of property unless the order is filed in a court with jurisdiction in this state.

(H) An entity providing an alternative retirement plan is not liable in civil damages for loss resulting from any action or failure to act in compliance with this section.

**Sec. 3307.152.** (A) As used in this section and in section 3307.154 of the Revised Code:

(1) "Agent" means a dealer, as defined in section 1707.01 of the Revised Code, who is licensed under sections 1707.01 to 1707.45 of the Revised Code or under comparable laws of another state or of the United States.

(2) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code.

(3) "Ohio-qualified agent" means an agent designated as such by the state teachers retirement board.

(4) "Ohio-qualified investment manager" means an investment manager designated as such by the state teachers retirement board.

(5) "Principal place of business" means an office in which the agent regularly provides securities or investment advisory services and solicits, meets with, or otherwise communicates with clients.

(B) The state teachers retirement board shall, for the purposes of this section, designate an agent as an Ohio-qualified agent if the agent meets all of the following requirements:

(1) The agent is subject to taxation under Chapter 5725., 5726., 5733., 5747., or 5751. of the Revised Code.

(2) The agent is authorized to conduct business in this state.

(3) The agent maintains a principal place of business in this state and employs at least five residents of this state.

(C) The state teachers retirement board shall adopt and implement a written policy to establish criteria and procedures used to select agents to execute securities transactions on behalf of the retirement system. The policy shall address each of the following:

(1) Commissions charged by the agent, both in the aggregate and on a per share basis;

(2) The execution speed and trade settlement capabilities of the agent;

(3) The responsiveness, reliability, and integrity of the agent;

(4) The nature and value of research provided by the agent;

(5) Any special capabilities of the agent.

(D)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified agents for the execution of domestic equity and fixed income trades on behalf of the retirement system, when an Ohio-qualified agent offers quality, services, and safety comparable to other agents otherwise available to the board and meets the criteria established under division (C) of this section.

(2) The board shall review, at least annually, the performance of the agents that execute securities transactions on behalf of the board.

(3) The board shall determine whether an agent is an Ohio-qualified agent, meets the criteria established by the board pursuant to division (C) of this section, and offers quality, services, and safety comparable to other agents otherwise available to the board. The board's determination shall be final.

**Sec. 3307.154.** (A) The state teachers retirement board shall, for the purposes of this section, designate an investment manager as an Ohio-qualified investment manager if the investment manager meets all of the following requirements:

(1) The investment manager is subject to taxation under Chapter 5725., 5726., 5733., 5747., or 5751. of the Revised Code.

(2) The investment manager meets one of the following requirements:

(a) Has its corporate headquarters or principal place of business in this state;

(b) Employs at least five hundred individuals in this state;

(c) Has a principal place of business in this state and employs at least twenty residents of this state.

(B)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified investment managers, when an Ohio-qualified investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The policy shall also provide for the following:

(a) A process whereby the board can develop a list of Ohio-qualified investment managers and their investment products;

(b) A process whereby the board can give public notice to Ohio-qualified investment managers of the board's search for an investment manager that includes the board's search criteria.

(2) The board shall determine whether an investment manager is an Ohio-qualified investment manager and whether the investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The board's determination shall be final.

**Sec. 3307.371.** (A) As used in this section, "alternate payee," "benefit," "lump sum payment," "participant," and "public retirement program" have the same meanings as in section 3105.80 of the Revised Code.

(B) On receipt of an order issued under section 3105.171 or 3105.65 of the Revised Code, the state teachers retirement system shall determine whether the order meets the requirements of sections 3105.80 to 3105.90 of the Revised Code. The system shall retain in the participant's record an order the board determines meets the requirements. Not later than sixty days after receipt, the system shall return to the court that issued the order any order the system determines does not meet the requirements.

(C) The system shall comply with an order retained under division (B) of this section at the following times as appropriate:

(1) If the participant has applied for or is receiving a benefit or has applied for but not yet received a lump sum payment, as soon as practicable;

(2) If the participant has not applied for a benefit or lump sum payment, on application by the participant for a benefit or lump sum payment.

(D) If the system transfers a participant's service credit or contributions made by or on behalf of a participant to a public retirement program that is not named in the order, the system shall do both of the following:

(1) Notify the court that issued the order by sending to the court a copy of the order and the name and address of the public retirement program to which the transfer was made.

(2) Send a copy of the order to the public retirement program to which the transfer was made.

(E) If it receives a participant's service credit or contributions and a copy of an order as provided in division (D) of this section, the system shall administer the order as if it were the public retirement program named in the order.

(F) If a participant's benefit or lump sum payment is or will be subject to more than one order described in section 3105.81 of the Revised Code or to an order described in that section and an order issued in accordance with Chapter 3119., 3121., 3123., or 3125. of the Revised Code, the system shall, after determining that the amounts that are or will be withheld will cause the benefit or lump sum payment to fall below the limits described in section 3105.85 of the Revised Code, do all of the following:

(1) Establish, in accordance with division (G) of this section and subject to the limits described in section 3105.85 of the Revised Code, the priority in which the orders are or will be paid by the system in accordance with division (G) of this section;

(2) Reduce the amount paid to an alternate payee based on the priority established under division (F)(1) of this section;

(3) Notify, by regular mail, a participant and alternate payee of any action taken under this division.

(G) A withholding or deduction notice issued in accordance with Chapter 3119., 3121., 3123.,

or 3125. of the Revised Code or an order described in section 3115.501 of the Revised Code has priority over all other orders and shall be complied with in accordance with child support enforcement laws. All other orders are entitled to priority in order of earliest retention by the system. The system is not to retain an order that provides for the division of property unless the order is filed in a court with jurisdiction in this state.

(H) The system is not liable in civil damages for loss resulting from any action or failure to act in compliance with this section.

**Sec. 3307.41.** The right of an individual to a pension, an annuity, or a retirement allowance itself, the right of an individual to any optional benefit, or any other right or benefit accrued or accruing to any individual under this chapter, the various funds created by section 3307.14 of the Revised Code, and all moneys, investments, and income from moneys or investments are exempt from any state tax, except the tax imposed by section 5747.02 of the Revised Code, and are exempt from any county, municipal, or other local tax, except income taxes imposed pursuant to section 5748.02, 5748.08, or 5748.09 of the Revised Code, and, except as provided in sections 3105.171, 3105.65, 3115.501, 3307.37, 3307.372, and 3307.373 and Chapters 3119., 3121., 3123., and 3125. of the Revised Code, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever, and shall be unassignable except as specifically provided in this chapter and sections 3105.171, 3105.65, and 3115.501 and Chapters 3119., 3121., 3123., and 3125. of the Revised Code.

**Sec. 3309.157.** (A) As used in this section and in section 3309.159 of the Revised Code:

(1) "Agent" means a dealer, as defined in section 1707.01 of the Revised Code, who is licensed under sections 1707.01 to 1707.45 of the Revised Code or under comparable laws of another state or of the United States.

(2) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code.

(3) "Ohio-qualified agent" means an agent designated as such by the school employees retirement board.

(4) "Ohio-qualified investment manager" means an investment manager designated as such by the school employees retirement board.

(5) "Principal place of business" means an office in which the agent regularly provides securities or investment advisory services and solicits, meets with, or otherwise communicates with clients.

(B) The school employees retirement board shall, for the purposes of this section, designate an agent as an Ohio-qualified agent if the agent meets all of the following requirements:

(1) The agent is subject to taxation under Chapter 5725., 5726., 5733., 5747., or 5751. of the Revised Code.

(2) The agent is authorized to conduct business in this state.

(3) The agent maintains a principal place of business in this state and employs at least five residents of this state.

(C) The school employees retirement board shall adopt and implement a written policy to establish criteria and procedures used to select agents to execute securities transactions on behalf of the retirement system. The policy shall address each of the following:



- (1) Commissions charged by the agent, both in the aggregate and on a per share basis;
- (2) The execution speed and trade settlement capabilities of the agent;
- (3) The responsiveness, reliability, and integrity of the agent;
- (4) The nature and value of research provided by the agent;
- (5) Any special capabilities of the agent.

(D)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified agents for the execution of domestic equity and fixed income trades on behalf of the retirement system, when an Ohio-qualified agent offers quality, services, and safety comparable to other agents otherwise available to the board and meets the criteria established under division (C) of this section.

(2) The board shall review, at least annually, the performance of the agents that execute securities transactions on behalf of the board.

(3) The board shall determine whether an agent is an Ohio-qualified agent, meets the criteria established by the board pursuant to division (C) of this section, and offers quality, services, and safety comparable to other agents otherwise available to the board. The board's determination shall be final.

**Sec. 3309.159.** (A) The school employees retirement board shall, for the purposes of this section, designate an investment manager as an Ohio-qualified investment manager if the investment manager meets all of the following requirements:

(1) The investment manager is subject to taxation under Chapter 5725., 5726., 5733., 5747., or 5751. of the Revised Code.

(2) The investment manager meets one of the following requirements:

(a) Has its corporate headquarters or principal place of business in this state;

(b) Employs at least five hundred individuals in this state;

(c) Has a principal place of business in this state and employs at least twenty residents of this state.

(B)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified investment managers, when an Ohio-qualified investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The policy shall also provide for the following:

(a) A process whereby the board can develop a list of Ohio-qualified investment managers and their investment products;

(b) A process whereby the board can give public notice to Ohio-qualified investment managers of the board's search for an investment manager that includes the board's search criteria.

(2) The board shall determine whether an investment manager is an Ohio-qualified investment manager and whether the investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The board's determination shall be final.

**Sec. 3309.66.** The right of an individual to a pension, an annuity, or a retirement allowance itself, the right of an individual to any optional benefit, any other right accrued or accruing to any individual under this chapter, the various funds created by section 3309.60 of the Revised Code, and all moneys, investments, and income from moneys and investments are exempt from any state tax,

except the tax imposed by section 5747.02 of the Revised Code, and are exempt from any county, municipal, or other local tax, except income taxes imposed pursuant to section 5748.02, 5748.08, or 5748.09 of the Revised Code, and, except as provided in sections 3105.171, 3105.65, 3115.501, 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, 3309.67, 3309.672, and 3309.673 of the Revised Code, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever, and shall be unassignable except as specifically provided in this chapter and in sections 3105.171, 3105.65, 3115.501, 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code.

**Sec. 3309.671.** (A) As used in this section, "alternate payee," "benefit," "lump sum payment," "participant," and "public retirement program" have the same meanings as in section 3105.80 of the Revised Code.

(B) On receipt of an order issued under section 3105.171 or 3105.65 of the Revised Code, the school employees retirement system shall determine whether the order meets the requirements of sections 3105.80 to 3105.90 of the Revised Code. The system shall retain in the participant's record an order the system determines meets the requirements. Not later than sixty days after receipt, the system shall return to the court that issued the order any order the system determines does not meet the requirements.

(C) The system shall comply with an order retained under division (B) of this section at the following times as appropriate:

(1) If the participant has applied for or is receiving a benefit or has applied for but not yet received a lump sum payment, as soon as practicable;

(2) If the participant has not applied for a benefit or lump sum payment, on application by the participant for a benefit or lump sum payment.

(D) If the system transfers a participant's service credit or contributions made by or on behalf of a participant to a public retirement program that is not named in the order, the system shall do both of the following:

(1) Notify the court that issued the order by sending the court a copy of the order and the name and address of the public retirement program to which the transfer was made.

(2) Send a copy of the order to the public retirement program to which the transfer was made.

(E) If it receives a participant's service credit or contributions and a copy of an order as provided in division (D) of this section, the system shall administer the order as if it were the public retirement program named in the order.

(F) If a participant's benefit or lump sum payment is or will be subject to more than one order described in section 3105.81 of the Revised Code or to an order described in section 3105.81 of the Revised Code and a withholding order under section 3111.23 or 3113.21 of the Revised Code, the system shall, after determining that the amounts that are or will be withheld will cause the benefit or lump sum payment to fall below the limits described in section 3105.85 of the Revised Code, do all of the following:

(1) Establish, in accordance with division (G) of this section and subject to the limits described in section 3105.85 of the Revised Code, the priority in which the orders are or will be paid by the system;

(2) Reduce the amount paid to an alternate payee based on the priority established under

division (F)(1) of this section;

(3) Notify, by regular mail, a participant and alternate payee of any action taken under this division.

(G) A withholding or deduction notice issued under section 3111.23 or 3113.21 of the Revised Code or an order described in section 3115.501 of the Revised Code has priority over all other orders and shall be complied with in accordance with child support enforcement laws. All other orders are entitled to priority in order of earliest retention by the system. The system is not to retain an order that provides for the division of property unless the order is filed in a court with jurisdiction in this state.

(H) The system is not liable in civil damages for loss resulting from any action or failure to act in compliance with this section.

**Sec. 3310.03.** A student is an "eligible student" for purposes of the educational choice scholarship pilot program if the student's resident district is not a school district in which the pilot project scholarship program is operating under sections 3313.974 to 3313.979 of the Revised Code and the student satisfies one of the conditions in division (A), (B), (C), (D), or (E) of this section:

(A)(1) The student is enrolled in a school building operated by the student's resident district that, on the report card issued under section 3302.03 of the Revised Code published prior to the first day of July of the school year for which a scholarship is sought, did not receive a rating as described in division (H) of this section, and to which any or a combination of any of the following apply for two of the three most recent report cards published prior to the first day of July of the school year for which a scholarship is sought:

(a) The building was declared to be in a state of academic emergency or academic watch under section 3302.03 of the Revised Code as that section existed prior to March 22, 2013.

(b) The building received a grade of "D" or "F" for the performance index score under division (A)(1)(b) or (B)(1)(b) of section 3302.03 of the Revised Code and for the value-added progress dimension under division (A)(1)(e) or (B)(1)(e) of section 3302.03 of the Revised Code for the 2012-2013, 2013-2014, 2014-2015, or 2015-2016 school year; or if the building serves only grades ten through twelve, the building received a grade of "D" or "F" for the performance index score under division (A)(1)(b) or (B)(1)(b) of section 3302.03 of the Revised Code and had a four-year adjusted cohort graduation rate of less than seventy-five per cent.

(c) The building received an overall grade of "D" or "F" under division (C)(3) of section 3302.03 of the Revised Code or a grade of "F" for the value-added progress dimension under division (C)(1)(e) of section 3302.03 of the Revised Code for the 2016-2017 school year or any school year thereafter.

(2) The student will be enrolling in any of grades kindergarten through twelve in this state for the first time in the school year for which a scholarship is sought, will be at least five years of age by the first day of January of the school year for which a scholarship is sought, and otherwise would be assigned under section 3319.01 of the Revised Code in the school year for which a scholarship is sought, to a school building described in division (A)(1) of this section.

(3) The student is enrolled in a community school established under Chapter 3314. of the Revised Code but otherwise would be assigned under section 3319.01 of the Revised Code to a building described in division (A)(1) of this section.

(4) The student is enrolled in a school building operated by the student's resident district or in a community school established under Chapter 3314. of the Revised Code and otherwise would be assigned under section 3319.01 of the Revised Code to a school building described in division (A)(1) of this section in the school year for which the scholarship is sought.

(5) The student will be both enrolling in any of grades kindergarten through twelve in this state for the first time and at least five years of age by the first day of January of the school year for which a scholarship is sought, or is enrolled in a community school established under Chapter 3314. of the Revised Code, and all of the following apply to the student's resident district:

(a) The district has in force an intradistrict open enrollment policy under which no student in the student's grade level is automatically assigned to a particular school building;

(b) In the most recent rating published prior to the first day of July of the school year for which scholarship is sought, the district did not receive a rating described in division (H) of this section, and in at least two of the three most recent report cards published prior to the first day of July of that school year, any or a combination of the following apply to the district:

(i) The district was declared to be in a state of academic emergency under section 3302.03 of the Revised Code as it existed prior to March 22, 2013.

(ii) The district received a grade of "D" or "F" for the performance index score under division (A)(1)(b) or (B)(1)(b) of section 3302.03 of the Revised Code and for the value-added progress dimension under division (A)(1)(e) or (B)(1)(e) of section 3302.03 of the Revised Code for the 2012-2013, 2013-2014, 2014-2015, or 2015-2016 school year.

(c) The district received an overall grade of "D" or "F" under division (C)(3) of section 3302.03 of the Revised Code or a grade of "F" for the value-added progress dimension under division (C)(1)(e) of section 3302.03 of the Revised Code for the 2016-2017 school year or any school year thereafter.

(6) Beginning in the 2016-2017 school year, the student is enrolled in or will be enrolling in a building in the school year for which the scholarship is sought that serves any of grades nine through twelve and that received a grade of "D" or "F" for the four-year adjusted cohort graduation rate under division (A)(1)(d), (B)(1)(d), or (C)(1)(d) of section 3302.03 of the Revised Code in two of the three most recent report cards published prior to the first day of July of the school year for which a scholarship is sought.

(B)(1) The student is enrolled in a school building operated by the student's resident district and to which both of the following apply:

(a) The building was ranked, for at least two of the three most recent rankings prior to the first day of July of the school year for which a scholarship is sought, in the lowest ten per cent of all buildings operated by city, local, and exempted village school districts according to performance index score as determined by the department of education.

(b) The building was not declared to be excellent or effective, or the equivalent of such ratings as determined by the department, under section 3302.03 of the Revised Code in the most recent rating published prior to the first day of July of the school year for which a scholarship is sought.

(2) The student will be enrolling in any of grades kindergarten through twelve in this state for the first time in the school year for which a scholarship is sought, will be at least five years of age, as

defined in section 3321.01 of the Revised Code, by the first day of January of the school year for which a scholarship is sought, and otherwise would be assigned under section 3319.01 of the Revised Code in the school year for which a scholarship is sought, to a school building described in division (B)(1) of this section.

(3) The student is enrolled in a community school established under Chapter 3314. of the Revised Code but otherwise would be assigned under section 3319.01 of the Revised Code to a building described in division (B)(1) of this section.

(4) The student is enrolled in a school building operated by the student's resident district or in a community school established under Chapter 3314. of the Revised Code and otherwise would be assigned under section 3319.01 of the Revised Code to a school building described in division (B)(1) of this section in the school year for which the scholarship is sought.

(C) The student is enrolled in a nonpublic school at the time the school is granted a charter by the state board of education under section 3301.16 of the Revised Code and the student meets the standards of division (B) of section 3310.031 of the Revised Code.

(D) For the 2016-2017 school year and each school year thereafter, the student is in any of grades kindergarten through three, is enrolled in a school building that is operated by the student's resident district or will be enrolling in any of grades kindergarten through twelve in this state for the first time in the school year for which a scholarship is sought, and to which both of the following apply:

(1) The building, in at least two of the three most recent ratings of school buildings published prior to the first day of July of the school year for which a scholarship is sought, received a grade of "D" or "F" for making progress in improving literacy in grades kindergarten through three under division (B)(1)(g) or (C)(1)(g) of section 3302.03 of the Revised Code;

(2) The building did not receive a grade of "A" for making progress in improving literacy in grades kindergarten through three under division (B)(1)(g) or (C)(1)(g) of section 3302.03 of the Revised Code in the most recent rating published prior to the first day of July of the school year for which a scholarship is sought.

(E) The student's resident district is subject to section 3302.10 of the Revised Code and the student either:

(1) Is enrolled in a school building operated by the resident district or in a community school established under Chapter 3314. of the Revised Code;

(2) Will be both enrolling in any of grades kindergarten through twelve in this state for the first time and at least five years of age by the first day of January of the school year for which a scholarship is sought.

(F) A student who receives a scholarship under the educational choice scholarship pilot program remains an eligible student and may continue to receive scholarships in subsequent school years until the student completes grade twelve, so long as all of the following apply:

(1) The student's resident district remains the same, or the student transfers to a new resident district and otherwise would be assigned in the new resident district to a school building described in division (A)(1), (B)(1), (D), or (E) of this section.

(2) Except as provided in divisions (K)(1) and (L) of section 3301.0711 of the Revised Code, the student takes each assessment prescribed for the student's grade level under section 3301.0710 or

3301.0712 of the Revised Code while enrolled in a chartered nonpublic school.

(3) In each school year that the student is enrolled in a chartered nonpublic school, the student is absent from school for not more than twenty days that the school is open for instruction, not including excused absences.

(G)(1) The department shall cease awarding first-time scholarships pursuant to divisions (A)(1) to (4) of this section with respect to a school building that, in the most recent ratings of school buildings published under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to meet the criteria in division (A)(1) of this section. The department shall cease awarding first-time scholarships pursuant to division (A)(5) of this section with respect to a school district that, in the most recent ratings of school districts published under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to meet the criteria in division (A)(5) of this section.

(2) The department shall cease awarding first-time scholarships pursuant to divisions (B)(1) to (4) of this section with respect to a school building that, in the most recent ratings of school buildings under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to meet the criteria in division (B)(1) of this section.

(3) The department shall cease awarding first-time scholarships pursuant to division (D) of this section with respect to a school building that, in the most recent ratings of school buildings under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to meet the criteria in division (D) of this section.

(4) The department shall cease awarding first-time scholarships pursuant to division (E) of this section with respect to a school district subject to section 3302.10 of the Revised Code when the academic distress commission established for the district ceases to exist.

(5) However, students who have received scholarships in the prior school year remain eligible students pursuant to division (F) of this section.

(H) The state board of education shall adopt rules defining excused absences for purposes of division (F)(3) of this section.

(I)(1) A student who satisfies only the conditions prescribed in divisions (A)(1) to (4) of this section shall not be eligible for a scholarship if the student's resident building meets any of the following in the most recent rating under section 3302.03 of the Revised Code published prior to the first day of July of the school year for which a scholarship is sought:

(a) The building has an overall designation of excellent or effective under section 3302.03 of the Revised Code as it existed prior to March 22, 2013.

(b) For the 2012-2013, 2013-2014, 2014-2015, or 2015-2016 school year, the building has a grade of "A" or "B" for the performance index score under division (A)(1)(b) or (B)(1)(b) of section 3302.03 of the Revised Code and for the value-added progress dimension under division (A)(1)(e) or (B)(1)(e) of section 3302.03 of the Revised Code; or if the building serves only grades ten through twelve, the building received a grade of "A" or "B" for the performance index score under division (A)(1)(b) or (B)(1)(b) of section 3302.03 of the Revised Code and had a four-year adjusted cohort graduation rate of greater than or equal to seventy-five per cent.

(c) For the 2016-2017 school year or any school year thereafter, the building has a grade of "A" or "B" under division (C)(3) of section 3302.03 of the Revised Code and a grade of "A" for the

value-added progress dimension under division (C)(1)(e) of section 3302.03 of the Revised Code; or if the building serves only grades ten through twelve, the building received a grade of "A" or "B" for the performance index score under division (C)(1)(b) of section 3302.03 of the Revised Code and had a four-year adjusted cohort graduation rate of greater than or equal to seventy-five per cent.

(2) A student who satisfies only the conditions prescribed in division (A)(5) of this section shall not be eligible for a scholarship if the student's resident district meets any of the following in the most recent rating under section 3302.03 of the Revised Code published prior to the first day of July of the school year for which a scholarship is sought:

(a) The district has an overall designation of excellent or effective under section 3302.03 of the Revised Code as it existed prior to March 22, 2013.

(b) The district has a grade of "A" or "B" for the performance index score under division (A)(1)(b) or (B)(1)(b) of section 3302.03 of the Revised Code and for the value-added progress dimension under division (A)(1)(e) or (B)(1)(e) of section 3302.03 of the Revised Code for the 2012-2013, 2013-2014, 2014-2015, and 2015-2016 school years.

(c) The district has an overall grade of "A" or "B" under division (C)(3) of section 3302.03 of the Revised Code and a grade of "A" for the value-added progress dimension under division (C)(1)(e) of section 3302.03 of the Revised Code for the 2016-2017 school year or any school year thereafter.

**Sec. 3310.09.** The maximum amount awarded to an eligible student under the educational choice scholarship pilot program shall be as follows:

(A) For grades kindergarten through eight, four thousand six hundred fifty dollars;

(B) For grades nine through twelve, as follows:

(1) For the 2015-2016 school year, five thousand nine hundred dollars;

(2) For the 2016-2017 school year and each school year thereafter, six thousand dollars.

**Sec. 3310.14.** (A) Except as provided in division (B) of this section, each chartered nonpublic school that is not subject to division (K)(1) of section 3301.0711 of the Revised Code and enrolls students awarded scholarships under sections 3310.01 to 3310.17 of the Revised Code annually shall administer the assessments prescribed by section 3301.0710, 3301.0712, or 3313.619 of the Revised Code, as applicable, to each scholarship student enrolled in the school in accordance with section 3301.0711 of the Revised Code. Each chartered nonpublic school that is subject to this section shall report to the department of education the results of each assessment administered to each scholarship student under this section.

Nothing in this section requires a chartered nonpublic school to administer any achievement assessment, except for an Ohio graduation test prescribed by division (B)(1) of section 3301.0710 or the college and work ready assessment system prescribed by division (B) of section 3301.0712 of the Revised Code to any student enrolled in the school who is not a scholarship student.

(B) A chartered nonpublic school that meets the conditions specified in division (K)(2) of section 3301.0711 of the Revised Code shall not be required to administer the elementary assessments prescribed by division (A) of section 3301.0710 of the Revised Code.

**Sec. 3310.41.** (A) As used in this section:

(1) "Alternative public provider" means either of the following providers that agrees to enroll

a child in the provider's special education program to implement the child's individualized education program and to which the child's parent owes fees for the services provided to the child:

(a) A school district that is not the school district in which the child is entitled to attend school;

(b) A public entity other than a school district.

(2) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 or 3313.65 of the Revised Code.

(3) "Formula ADM" and "category six special education ADM" have the same meanings as in section 3317.02 of the Revised Code.

(4) "Preschool child with a disability" and "individualized education program" have the same meanings as in section 3323.01 of the Revised Code.

(5) "Parent" has the same meaning as in section 3313.64 of the Revised Code, except that "parent" does not mean a parent whose custodial rights have been terminated. "Parent" also includes the custodian of a qualified special education child, when a court has granted temporary, legal, or permanent custody of the child to an individual other than either of the natural or adoptive parents of the child or to a government agency.

(6) "Preschool scholarship ADM" means the number of preschool children with disabilities certified under division (B)(3)(h) of section 3317.03 of the Revised Code.

(7) "Qualified special education child" is a child for whom all of the following conditions apply:

(a) The school district in which the child is entitled to attend school has identified the child as autistic. A child who has been identified as having a "pervasive developmental disorder - not otherwise specified (PPD-NOS)" shall be considered to be an autistic child for purposes of this section.

(b) The school district in which the child is entitled to attend school has developed an individualized education program under Chapter 3323. of the Revised Code for the child.

(c) The child either:

(i) Was enrolled in the school district in which the child is entitled to attend school in any grade from preschool through twelve in the school year prior to the year in which a scholarship under this section is first sought for the child; or

(ii) Is eligible to enter school in any grade preschool through twelve in the school district in which the child is entitled to attend school in the school year in which a scholarship under this section is first sought for the child.

(8) "Registered private provider" means a nonpublic school or other nonpublic entity that has been approved by the department of education to participate in the program established under this section.

(9) "Special education program" means a school or facility that provides special education and related services to children with disabilities.

(B) There is hereby established the autism scholarship program. Under the program, the department of education shall pay a scholarship to the parent of each qualified special education child upon application of that parent pursuant to procedures and deadlines established by rule of the state board of education. Each scholarship shall be used only to pay tuition for the child on whose behalf



the scholarship is awarded to attend a special education program that implements the child's individualized education program and that is operated by an alternative public provider or by a registered private provider, and to pay for other services agreed to by the provider and the parent of a qualified special education child that are not included in the individualized education program but are associated with educating the child. Upon agreement with the parent of a qualified special education child, the alternative public provider or the registered private provider may modify the services provided to the child. Each scholarship shall be in an amount not to exceed the lesser of the tuition charged for the child by the special education program or twenty-seven thousand dollars. The purpose of the scholarship is to permit the parent of a qualified special education child the choice to send the child to a special education program, instead of the one operated by or for the school district in which the child is entitled to attend school, to receive the services prescribed in the child's individualized education program once the individualized education program is finalized and any other services agreed to by the provider and the parent of a qualified special education child. The services provided under the scholarship shall include an educational component or services designed to assist the child to benefit from the child's education.

A scholarship under this section shall not be awarded to the parent of a child while the child's individualized education program is being developed by the school district in which the child is entitled to attend school, or while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending. A scholarship under this section shall not be used for a child to attend a public special education program that operates under a contract, compact, or other bilateral agreement between the school district in which the child is entitled to attend school and another school district or other public provider, or for a child to attend a community school established under Chapter 3314. of the Revised Code. However, nothing in this section or in any rule adopted by the state board shall prohibit a parent whose child attends a public special education program under a contract, compact, or other bilateral agreement, or a parent whose child attends a community school, from applying for and accepting a scholarship under this section so that the parent may withdraw the child from that program or community school and use the scholarship for the child to attend a special education program for which the parent is required to pay for services for the child.

Except for development of the child's individualized education program, the school district in which a qualified special education child is entitled to attend school and the child's school district of residence, as defined in section 3323.01 of the Revised Code, if different, are not obligated to provide the child with a free appropriate public education under Chapter 3323. of the Revised Code for as long as the child continues to attend the special education program operated by either an alternative public provider or a registered private provider for which a scholarship is awarded under the autism scholarship program. If at any time, the eligible applicant for the child decides no longer to accept scholarship payments and enrolls the child in the special education program of the school district in which the child is entitled to attend school, that district shall provide the child with a free appropriate public education under Chapter 3323. of the Revised Code.

A child attending a special education program with a scholarship under this section shall continue to be entitled to transportation to and from that program in the manner prescribed by law.

(C)(1) As prescribed in divisions (A)(2)(h), (B)(3)(g), and (B)(10) of section 3317.03 of the

Revised Code, a child who is not a preschool child with a disability for whom a scholarship is awarded under this section shall be counted in the formula ADM and the category six special education ADM of the district in which the child is entitled to attend school and not in the formula ADM and the category six special education ADM of any other school district. As prescribed in divisions (B)(3)(h) and (B)(10) of section 3317.03 of the Revised Code, a child who is a preschool child with a disability for whom a scholarship is awarded under this section shall be counted in the preschool scholarship ADM and category six special education ADM of the school district in which the child is entitled to attend school and not in the preschool scholarship ADM or category six special education ADM of any other school district.

(2) In each fiscal year, the department shall deduct from the amounts paid to each school district under Chapter 3317. of the Revised Code, and, if necessary, sections 321.24 and 323.156 of the Revised Code, the aggregate amount of scholarships awarded under this section for qualified special education children included in the formula ADM, or preschool scholarship ADM, and in the category six special education ADM of that school district as provided in division (C)(1) of this section.

The scholarships deducted shall be considered as an approved special education and related services expense of the school district.

(3) From time to time, the department shall make a payment to the parent of each qualified special education child for whom a scholarship has been awarded under this section. The scholarship amount shall be proportionately reduced in the case of any such child who is not enrolled in the special education program for which a scholarship was awarded under this section for the entire school year. The department shall make no payments to the parent of a child while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending.

(D) A scholarship shall not be paid to a parent for payment of tuition owed to a nonpublic entity unless that entity is a registered private provider. The department shall approve entities that meet the standards established by rule of the state board for the program established under this section.

(E) The state board shall adopt rules under Chapter 119. of the Revised Code prescribing procedures necessary to implement this section, including, but not limited to, procedures and deadlines for parents to apply for scholarships, standards for registered private providers, and procedures for approval of entities as registered private providers.

The rules also shall specify that intervention services under the autism scholarship program may be provided by a qualified, credentialed provider, including, but not limited to, all of the following:

- (1) A behavior analyst certified by a nationally recognized organization that certifies behavior analysts;
- (2) A psychologist licensed to practice in this state under Chapter 4732. of the Revised Code;
- (3) A school psychologist licensed by the state board under section 3319.22 of the Revised Code;
- (4) Any person employed by a licensed psychologist or licensed school psychologist, while carrying out specific tasks, under the licensee's supervision, as an extension of the licensee's legal

and ethical authority as specified under Chapter 4732. of the Revised Code who is ascribed as "psychology trainee," "psychology assistant," "psychology intern," or other appropriate term that clearly implies their supervised or training status;

(5) Unlicensed persons holding a doctoral degree in psychology or special education from a program approved by the state board;

(6) Any other qualified individual as determined by the state board.

(F) The department shall provide reasonable notice to all parents of children receiving a scholarship under the autism scholarship program, alternative public providers, and registered private providers of any amendment to a rule governing, or change in the administration of, the autism scholarship program.

**Sec. 3310.522.** In order to maintain eligibility for a scholarship, a student shall take each assessment prescribed by section 3301.0710, 3301.0712, or 3313.619 of the Revised Code, as applicable, in accordance with section 3301.0711 of the Revised Code, unless the student is excused from taking that assessment under federal law or the student's individualized education program or the student is enrolled in a chartered nonpublic school that meets the conditions specified in division (K)(2) of section 3301.0711 of the Revised Code.

Each registered private provider that is not subject to division (K)(1) of section 3301.0711 of the Revised Code and enrolls a student who is awarded a scholarship shall administer each assessment prescribed by section 3301.0710, 3301.0712, or 3313.619 of the Revised Code, as applicable, to that student in accordance with section 3301.0711 of the Revised Code, unless the student is excused from taking that assessment or the student is enrolled in a chartered nonpublic school that meets the conditions specified in division (K)(2) of section 3301.0711 of the Revised Code, and shall report to the department the results of each assessment so administered.

Nothing in this section requires any chartered nonpublic school that is a registered private provider to administer any achievement assessment, except for an Ohio graduation test prescribed by division (B)(1) of section 3301.0710 or the college and work ready assessment system prescribed by division (B) of section 3301.0712 of the Revised Code to any student enrolled in the school who is not a scholarship student.

**Sec. 3310.56.** (A) The amount of the scholarship awarded and paid to an eligible applicant for services for a qualified special education child under the Jon Peterson special needs scholarship program in each school year shall be the least of the amounts prescribed in divisions (A)(1), (2), and (3) of this section, as follows:

(1) The amount of fees charged for that school year by the alternative public provider or registered private provider;

(2) The sum of the amounts calculated under divisions (A)(2)(a) and (b) of this section:

(a) The formula amount;

(b) An amount prescribed for the child's disability as follows:

(i) For a student in category one, the amount specified in division (A) of section 3317.013 of the Revised Code;

(ii) For a student in category two, the amount specified in division (B) of section 3317.013 of the Revised Code;

(iii) For a student in category three, the amount specified in division (C) of section 3317.013

of the Revised Code;

(iv) For a student in category four, the amount specified in division (D) of section 3317.013 of the Revised Code;

(v) For a student in category five, the amount specified in division (E) of section 3317.013 of the Revised Code;

(vi) For a student in category six, the amount specified in division (F) of section 3317.013 of the Revised Code.

(3) Twenty-seven thousand dollars.

(B) As used in division (A)(2)(b) of this section, a child with a disability is in:

(1) "Category one" if the child is receiving special education services for a disability specified in division (A) of section 3317.013 of the Revised Code;

(2) "Category two" if the child is receiving special education services for a disability specified in division (B) of section 3317.013 of the Revised Code;

(3) "Category three" if the child is receiving special education services for a disability specified in division (C) of section 3317.013 of the Revised Code;

(4) "Category four" if the child is receiving special education services for a disability specified in division (D) of section 3317.013 of the Revised Code;

(5) "Category five" if the child is receiving special education services for a disability specified in division (E) of section 3317.013 of the Revised Code;

(6) "Category six" if the child is receiving special education services for a disability specified in division (F) of section 3317.013 of the Revised Code.

**Sec. 3311.19.** (A) The management and control of a joint vocational school district shall be vested in the joint vocational school district board of education which, beginning on September 29, 2013, shall be appointed under division (C) of this section.

All members of a joint vocational school district board serving unexpired terms on September 29, 2013, may continue in office until the expiration of their terms. If a member leaves office for any reason prior to the expiration of that member's term, the vacancy shall be filled only in the manner provided in division (C) of this section.

(B) Except as provided in section 3311.191 of the Revised Code, members of the joint vocational school district board appointed on or after September 29, 2013, shall serve for three-year terms of office.

(C) The manner of appointment and the total number of members appointed to the joint vocational school district board shall be in accordance with the most recent plan for the joint vocational school district on file with the department of education.

(1) Appointments under this section shall be made as the terms of members of each joint vocational school district board who are serving unexpired terms on September 29, 2013, expire or as those offices are otherwise vacated prior to the expiration date.

(2) Members of the joint vocational board shall be appointed by the member school district boards of education. Members of a joint vocational school district board may either be a current elected board member of a school district board that is a member of the joint vocational school district or an individual who has experience or knowledge regarding the labor needs of the state and region with an understanding of the skills, training, and education needed for current and future

employment opportunities in the state. The appointing board may give preference to individuals who have served as members on a joint vocational school business advisory committee.

(D) The vocational schools in the joint vocational school district shall be available to all youth of school age within the joint vocational school district subject to the rules adopted by the joint vocational school district board of education in regard to the standards requisite to admission. A joint vocational school district board of education shall have the same powers, duties, and authority for the management and operation of such joint vocational school district as is granted by law, except by this chapter and Chapters 124., 3317., 3323., and 3331. of the Revised Code, to a board of education of a city school district, and shall be subject to all the provisions of law that apply to a city school district, except such provisions in this chapter and Chapters 124., 3317., 3323., and 3331. of the Revised Code.

(E) The superintendent of schools of a joint vocational school district shall exercise the duties and authority vested by law in a superintendent of schools pertaining to the operation of a school district and the employment and supervision of its personnel. The joint vocational school district board of education shall appoint a treasurer of the joint vocational school district who shall be the fiscal officer for such district and who shall have all the powers, duties, and authority vested by law in a treasurer of a board of education.

(F) Each member of a joint vocational school district board of education may be paid such compensation as the board provides by resolution, but it shall not exceed one hundred twenty-five dollars per member for each meeting attended plus mileage, at the rate per mile provided by resolution of the board, to and from meetings of the board.

The board may provide by resolution for the deduction of amounts payable for benefits under section 3313.202 of the Revised Code.

Each member of a joint vocational school district board may be paid such compensation as the board provides by resolution for attendance at an approved training program, provided that such compensation shall not exceed sixty dollars per day for attendance at a training program three hours or fewer in length and one hundred twenty-five dollars a day for attendance at a training program longer than three hours in length. However, no board member shall be compensated for the same training program under this section and section 3313.12 of the Revised Code.

**Sec. 3311.191.**

**Sec. 3311.221.**

**Sec. 3313.375.** The board of education of a city, local, exempted village, or joint vocational school district, the governing board of an educational service center, or the governing authority of a community school may enter into a lease-purchase agreement providing for construction; enlarging or other improvement, furnishing, and equipping; lease; and eventual acquisition of facilities or improvements to facilities, including but not limited to buildings, playgrounds, parking lots, athletic facilities, and safety enhancements for any school district, educational service center, or community school purpose. The agreement shall provide for a lease for a series of one-year renewable lease terms totaling not more than the number of years equivalent to the useful life of the asset and in no event more than thirty years. The agreement shall provide that at the end of the series of lease terms provided for in the agreement the title to the leased property shall be vested in the school district or educational service center, if all obligations of the school district, educational service center, or

community school provided for in the agreement have been satisfied. The agreement may, in addition to the rental payments, require the school district, educational service center, or community school to pay the lessor a lump-sum amount as a condition of obtaining title to the leased property. In conjunction with the agreement, a school district board of education, an educational service center governing board, or a governing authority of a community school may grant leases, easements, or licenses for underlying land or facilities under the board's control for terms not exceeding five years beyond the final renewal term of the lease-purchase agreement entered into pursuant to this section. Payments under the agreement may be deemed to be, and paid as, current operating expenses.

The obligations under a lease-purchase agreement entered into pursuant to this section shall not be considered to be net indebtedness of a school district under section 133.06 of the Revised Code.

**Sec. 3313.41.** (A) Except as provided in divisions (C), (D), and (F) of this section and in sections 3313.412 and 3313.413 of the Revised Code, when a board of education decides to dispose of real or personal property that it owns in its corporate capacity and that exceeds in value ten thousand dollars, it shall sell the property at public auction, after giving at least thirty days' notice of the auction by publication in a newspaper of general circulation in the school district, by publication as provided in section 7.16 of the Revised Code, or by posting notices in five of the most public places in the school district in which the property, if it is real property, is situated, or, if it is personal property, in the school district of the board of education that owns the property. The board may offer real property for sale as an entire tract or in parcels.

(B) When the board of education has offered real or personal property for sale at public auction at least once pursuant to division (A) of this section, and the property has not been sold, the board may sell it at a private sale. Regardless of how it was offered at public auction, at a private sale, the board shall, as it considers best, sell real property as an entire tract or in parcels, and personal property in a single lot or in several lots.

(C) If a board of education decides to dispose of real or personal property that it owns in its corporate capacity and that exceeds in value ten thousand dollars, it may sell the property to the adjutant general; to any subdivision or taxing authority as respectively defined in section 5705.01 of the Revised Code, township park district, board of park commissioners established under Chapter 755. of the Revised Code, or park district established under Chapter 1545. of the Revised Code; to a wholly or partially tax-supported university, university branch, or college; to a nonprofit institution of higher education that has a certificate of authorization under Chapter 1713. of the Revised Code; to the governing authority of a chartered nonpublic school; or to the board of trustees of a school district library, upon such terms as are agreed upon. The sale of real or personal property to the board of trustees of a school district library is limited, in the case of real property, to a school district library within whose boundaries the real property is situated, or, in the case of personal property, to a school district library whose boundaries lie in whole or in part within the school district of the selling board of education.

(D) When a board of education decides to trade as a part or an entire consideration, an item of personal property on the purchase price of an item of similar personal property, it may trade the same upon such terms as are agreed upon by the parties to the trade.

(E) The president and the treasurer of the board of education shall execute and deliver deeds

or other necessary instruments of conveyance to complete any sale or trade under this section.

(F) When a board of education has identified a parcel of real property that it determines is needed for school purposes, the board may, upon a majority vote of the members of the board, acquire that property by exchanging real property that the board owns in its corporate capacity for the identified real property or by using real property that the board owns in its corporate capacity as part or an entire consideration for the purchase price of the identified real property. Any exchange or acquisition made pursuant to this division shall be made by a conveyance executed by the president and the treasurer of the board.

(G) When a school district board of education has property that the board, by resolution, finds is not needed for school district use, is obsolete, or is unfit for the use for which it was acquired, the board may donate that property in accordance with this division if the fair market value of the property is, in the opinion of the board, two thousand five hundred dollars or less.

The property may be donated to an eligible nonprofit organization that is located in this state and is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3). Before donating any property under this division, the board shall adopt a resolution expressing its intent to make unneeded, obsolete, or unfit-for-use school district property available to these organizations. The resolution shall include guidelines and procedures the board considers to be necessary to implement the donation program and shall indicate whether the school district will conduct the donation program or the board will contract with a representative to conduct it. If a representative is known when the resolution is adopted, the resolution shall provide contact information such as the representative's name, address, and telephone number.

The resolution shall include within its procedures a requirement that any nonprofit organization desiring to obtain donated property under this division shall submit a written notice to the board or its representative. The written notice shall include evidence that the organization is a nonprofit organization that is located in this state and is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3); a description of the organization's primary purpose; a description of the type or types of property the organization needs; and the name, address, and telephone number of a person designated by the organization's governing board to receive donated property and to serve as its agent.

After adoption of the resolution, the board shall publish, in a newspaper of general circulation in the school district or as provided in section 7.16 of the Revised Code, notice of its intent to donate unneeded, obsolete, or unfit-for-use school district property to eligible nonprofit organizations. The notice shall include a summary of the information provided in the resolution and shall be published twice. The second notice shall be published not less than ten nor more than twenty days after the previous notice. A similar notice also shall be posted continually in the board's office. If the school district maintains a web site on the internet, the notice shall be posted continually at that web site.

The board or its representatives shall maintain a list of all nonprofit organizations that notify the board or its representative of their desire to obtain donated property under this division and that the board or its representative determines to be eligible, in accordance with the requirements set forth in this section and in the donation program's guidelines and procedures, to receive donated property.

The board or its representative also shall maintain a list of all school district property the board finds to be unneeded, obsolete, or unfit for use and to be available for donation under this

division. The list shall be posted continually in a conspicuous location in the board's office, and, if the school district maintains a web site on the internet, the list shall be posted continually at that web site. An item of property on the list shall be donated to the eligible nonprofit organization that first declares to the board or its representative its desire to obtain the item unless the board previously has established, by resolution, a list of eligible nonprofit organizations that shall be given priority with respect to the item's donation. Priority may be given on the basis that the purposes of a nonprofit organization have a direct relationship to specific school district purposes of programs provided or administered by the board. A resolution giving priority to certain nonprofit organizations with respect to the donation of an item of property shall specify the reasons why the organizations are given that priority.

Members of the board shall consult with the Ohio ethics commission, and comply with Chapters 102. and 2921. of the Revised Code, with respect to any donation under this division to a nonprofit organization of which a board member, any member of a board member's family, or any business associate of a board member is a trustee, officer, board member, or employee.

**Sec. 3313.411.** (A) As used in this section:

(1) "College-preparatory boarding school" means a college-preparatory boarding school established under Chapter 3328. of the Revised Code.

(2) "Community school" means a community school established under Chapter 3314. of the Revised Code.

(3) "High-performing community school" has the same meaning as in section 3313.413 of the Revised Code.

(4) "STEM school" means a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code.

(5) "Unused school facilities" means any real property that has been used by a school district for school operations, including, but not limited to, academic instruction or administration, since July 1, 1998, but has not been used in that capacity for two years.

(B)(1) Except as provided in section 3313.412 of the Revised Code, on and after June 30, 2011, any school district board of education shall offer any unused school facilities it owns in its corporate capacity for lease or sale to the governing authorities of community schools, the boards of trustees of any college-preparatory boarding schools, and the governing bodies of any STEM schools, that are located within the territory of the district. Not later than sixty days after the district board makes the offer, interested governing authorities, boards of trustees, and governing bodies shall notify the district treasurer in writing of the intention to lease or purchase the property.

The district board shall give priority to the governing authorities of high-performing community schools that are located within the territory of the district.

(2) At the same time that a district board makes the offer required under division (B)(1) of this section, the board also may, but shall not be required to, offer that property for sale or lease to the governing authorities of community schools with plans, stipulated in their contracts entered into under section 3314.03 of the Revised Code, either to relocate their operations to the territory of the district or to add facilities, as authorized by division (B)(3) or (4) of section 3314.05 of the Revised Code, to be located within the territory of the district.

(C)(1) If, not later than sixty days after the district board makes the offer, only one governing



authority of a high-performing community school offered the property under division (B) of this section notifies the district treasurer in writing of the intention to purchase the property pursuant to that division, the district board shall sell the property to that party for the appraised fair market value of the property as determined in an appraisal of the property that is not more than one year old.

If, not later than sixty days after the district board makes the offer, more than one governing authority of a high-performing community school offered the property under division (B) of this section notifies the district treasurer in writing of the intention to purchase the property pursuant to that division, the board shall conduct a public auction in the manner required for auctions of district property under division (A) of section 3313.41 of the Revised Code. Only the governing authorities of high-performing community schools that notified the district treasurer of the intention to purchase the property pursuant to division (B) of this section are eligible to bid at the auction. The district board is not obligated to accept any bid for the property that is lower than the appraised fair market value of the property as determined in an appraisal that is not more than one year old.

(2) If, not later than sixty days after the district board makes the offer, no governing authority of a high-performing community school notifies the district treasurer of its intention to purchase the property pursuant to division (B) of this section, the board shall then proceed with the offers from all other start-up community schools, college-preparatory boarding schools, and STEM schools made pursuant to that division.

If more than one such entity notifies the district treasurer of its intention to purchase the property pursuant to division (B) of this section, the board shall conduct a public auction in the manner required for auctions of district property under division (A) of section 3313.41 of the Revised Code. Only the entities that notified the district treasurer pursuant to division (B) of this section are eligible to bid at the auction.

(3) If more than one governing authority of a high-performing community school notifies the district treasurer in writing of the intention to lease the property pursuant to division (B) of this section, the district board shall conduct a lottery to select from among those governing authorities the one qualified governing authority to which the district board shall lease the property.

If no such governing authority of a high-performing community school notifies the district treasurer of its intention to lease the property pursuant to division (B) of this section, the board shall then proceed with the offers from all other start-up community schools, college-preparatory boarding schools, and STEM schools made pursuant to that division. If more than one other start-up community school, college-preparatory boarding school, or STEM school notified the district treasurer of its intention to lease the property pursuant to division (B) of this section, the district board shall conduct a lottery to select from among those parties the one qualified party to which the district board shall lease the property.

(4) The lease price offered by a district board to a community school, college-preparatory boarding school, or STEM school under this section shall not be higher than the fair market value for such a leasehold as determined in an appraisal that is not more than one year old.

(5) If no qualified party offered the property under division (B) of this section accepts the offer to lease or buy the property within sixty days after the offer is made, the district board may offer the property to any other entity in accordance with divisions (A) to (F) of section 3313.41 of the Revised Code.

(D) Notwithstanding division (B) of this section, a school district board may renew any agreement it originally entered into prior to June 30, 2011, to lease real property to an entity other than a community school, college-preparatory boarding school, or STEM school. Nothing in this section shall affect the leasehold arrangements between the district board and that other entity.

(E)(1) Except as provided in division (E)(2) of this section, the governing authority of a community school, board of trustees of a college-preparatory boarding school, or governing body of a STEM school shall not sell any property purchased under division (B) of this section within five years of purchasing that property.

(2) The governing authority, board of trustees, or governing body may sell a property purchased under division (B) of this section within five years of the purchase, only if the governing authority, board of trustees, or governing body sells or transfers that property to another entity described in that division.

**Sec. 3313.413.**

**Sec. 3313.603.** (A) As used in this section:

(1) "One unit" means a minimum of one hundred twenty hours of course instruction, except that for a laboratory course, "one unit" means a minimum of one hundred fifty hours of course instruction.

(2) "One-half unit" means a minimum of sixty hours of course instruction, except that for physical education courses, "one-half unit" means a minimum of one hundred twenty hours of course instruction.

(B) Beginning September 15, 2001, except as required in division (C) of this section and division (C) of section 3313.614 of the Revised Code, the requirements for graduation from every high school shall include twenty units earned in grades nine through twelve and shall be distributed as follows:

- (1) English language arts, four units;
- (2) Health, one-half unit;
- (3) Mathematics, three units;
- (4) Physical education, one-half unit;
- (5) Science, two units until September 15, 2003, and three units thereafter, which at all times shall include both of the following:
  - (a) Biological sciences, one unit;
  - (b) Physical sciences, one unit.
- (6) History and government, one unit, which shall comply with division (M) of this section and shall include both of the following:
  - (a) American history, one-half unit;
  - (b) American government, one-half unit.
- (7) Social studies, two units.

Beginning with students who enter ninth grade for the first time on or after July 1, 2017, the two units of instruction prescribed by division (B)(7) of this section shall include at least one-half unit of instruction in the study of world history and civilizations.

(8) Elective units, seven units until September 15, 2003, and six units thereafter.

Each student's electives shall include at least one unit, or two half units, chosen from among

the areas of business/technology, fine arts, and/or foreign language.

(C) Beginning with students who enter ninth grade for the first time on or after July 1, 2010, except as provided in divisions (D) to (F) of this section, the requirements for graduation from every public and chartered nonpublic high school shall include twenty units that are designed to prepare students for the workforce and college. The units shall be distributed as follows:

(1) English language arts, four units;

(2) Health, one-half unit, which shall include instruction in nutrition and the benefits of nutritious foods and physical activity for overall health;

(3) Mathematics, four units, which shall include one unit of algebra II or the equivalent of algebra II, or one unit of advanced computer science as described in the standards adopted pursuant to division (A)(4) of section 3301.079 of the Revised Code. However, students who enter ninth grade for the first time on or after July 1, 2015, and who are pursuing a career-technical instructional track shall not be required to take algebra II or advanced computer science, and instead may complete a career-based pathway mathematics course approved by the department of education as an alternative.

For students who choose to take advanced computer science in lieu of algebra II under division (C)(3) of this section, the school shall communicate to those students that some institutions of higher education may require algebra II for the purpose of college admission. Also, the parent, guardian, or legal custodian of each student who chooses to take advanced computer science in lieu of algebra II shall sign and submit to the school a document containing a statement acknowledging that not taking algebra II may have an adverse effect on college admission decisions.

(4) Physical education, one-half unit;

(5) Science, three units with inquiry-based laboratory experience that engages students in asking valid scientific questions and gathering and analyzing information, which shall include the following, or their equivalent:

(a) Physical sciences, one unit;

(b) Life sciences, one unit;

(c) Advanced study in one or more of the following sciences, one unit:

(i) Chemistry, physics, or other physical science;

(ii) Advanced biology or other life science;

(iii) Astronomy, physical geology, or other earth or space science;

(iv) Computer science.

No student shall substitute a computer science course for a life sciences or biology course under division (C)(5) of this section.

(6) History and government, one unit, which shall comply with division (M) of this section and shall include both of the following:

(a) American history, one-half unit;

(b) American government, one-half unit.

(7) Social studies, two units.

Each school shall integrate the study of economics and financial literacy, as expressed in the social studies academic content standards adopted by the state board of education under division (A) (1) of section 3301.079 of the Revised Code and the academic content standards for financial literacy and entrepreneurship adopted under division (A)(2) of that section, into one or more existing social

studies credits required under division (C)(7) of this section, or into the content of another class, so that every high school student receives instruction in those concepts. In developing the curriculum required by this paragraph, schools shall use available public-private partnerships and resources and materials that exist in business, industry, and through the centers for economics education at institutions of higher education in the state.

Beginning with students who enter ninth grade for the first time on or after July 1, 2017, the two units of instruction prescribed by division (C)(7) of this section shall include at least one-half unit of instruction in the study of world history and civilizations.

(8) Five units consisting of one or any combination of foreign language, fine arts, business, career-technical education, family and consumer sciences, technology which may include computer science, agricultural education, a junior reserve officer training corps (JROTC) program approved by the congress of the United States under title 10 of the United States Code, or English language arts, mathematics, science, or social studies courses not otherwise required under division (C) of this section.

Ohioans must be prepared to apply increased knowledge and skills in the workplace and to adapt their knowledge and skills quickly to meet the rapidly changing conditions of the twenty-first century. National studies indicate that all high school graduates need the same academic foundation, regardless of the opportunities they pursue after graduation. The goal of Ohio's system of elementary and secondary education is to prepare all students for and seamlessly connect all students to success in life beyond high school graduation, regardless of whether the next step is entering the workforce, beginning an apprenticeship, engaging in post-secondary training, serving in the military, or pursuing a college degree.

The requirements for graduation prescribed in division (C) of this section are the standard expectation for all students entering ninth grade for the first time at a public or chartered nonpublic high school on or after July 1, 2010. A student may satisfy this expectation through a variety of methods, including, but not limited to, integrated, applied, career-technical, and traditional coursework.

Whereas teacher quality is essential for student success when completing the requirements for graduation, the general assembly shall appropriate funds for strategic initiatives designed to strengthen schools' capacities to hire and retain highly qualified teachers in the subject areas required by the curriculum. Such initiatives are expected to require an investment of \$120,000,000 over five years.

Stronger coordination between high schools and institutions of higher education is necessary to prepare students for more challenging academic endeavors and to lessen the need for academic remediation in college, thereby reducing the costs of higher education for Ohio's students, families, and the state. The state board and the chancellor of higher education shall develop policies to ensure that only in rare instances will students who complete the requirements for graduation prescribed in division (C) of this section require academic remediation after high school.

School districts, community schools, and chartered nonpublic schools shall integrate technology into learning experiences across the curriculum in order to maximize efficiency, enhance learning, and prepare students for success in the technology-driven twenty-first century. Districts and schools shall use distance and web-based course delivery as a method of providing or augmenting all

instruction required under this division, including laboratory experience in science. Districts and schools shall utilize technology access and electronic learning opportunities provided by the broadcast educational media commission, chancellor, the Ohio learning network, education technology centers, public television stations, and other public and private providers.

(D) Except as provided in division (E) of this section, a student who enters ninth grade on or after July 1, 2010, and before July 1, 2016, may qualify for graduation from a public or chartered nonpublic high school even though the student has not completed the requirements for graduation prescribed in division (C) of this section if all of the following conditions are satisfied:

(1) During the student's third year of attending high school, as determined by the school, the student and the student's parent, guardian, or custodian sign and file with the school a written statement asserting the parent's, guardian's, or custodian's consent to the student's graduating without completing the requirements for graduation prescribed in division (C) of this section and acknowledging that one consequence of not completing those requirements is ineligibility to enroll in most state universities in Ohio without further coursework.

(2) The student and parent, guardian, or custodian fulfill any procedural requirements the school stipulates to ensure the student's and parent's, guardian's, or custodian's informed consent and to facilitate orderly filing of statements under division (D)(1) of this section. Annually, each district or school shall notify the department of the number of students who choose to qualify for graduation under division (D) of this section and the number of students who complete the student's success plan and graduate from high school.

(3) The student and the student's parent, guardian, or custodian and a representative of the student's high school jointly develop a student success plan for the student in the manner described in division (C)(1) of section 3313.6020 of the Revised Code that specifies the student matriculating to a two-year degree program, acquiring a business and industry-recognized credential, or entering an apprenticeship.

(4) The student's high school provides counseling and support for the student related to the plan developed under division (D)(3) of this section during the remainder of the student's high school experience.

(5)(a) Except as provided in division (D)(5)(b) of this section, the student successfully completes, at a minimum, the curriculum prescribed in division (B) of this section.

(b) Beginning with students who enter ninth grade for the first time on or after July 1, 2014, a student shall be required to complete successfully, at the minimum, the curriculum prescribed in division (B) of this section, except as follows:

(i) Mathematics, four units, one unit which shall be one of the following:

(I) Probability and statistics;

(II) Computer science;

(III) Applied mathematics or quantitative reasoning;

(IV) Any other course approved by the department using standards established by the superintendent not later than October 1, 2014.

(ii) Elective units, five units;

(iii) Science, three units as prescribed by division (B) of this section which shall include inquiry-based laboratory experience that engages students in asking valid scientific questions and

gathering and analyzing information.

The department, in collaboration with the chancellor, shall analyze student performance data to determine if there are mitigating factors that warrant extending the exception permitted by division (D) of this section to high school classes beyond those entering ninth grade before July 1, 2016. The department shall submit its findings and any recommendations not later than December 1, 2015, to the speaker and minority leader of the house of representatives, the president and minority leader of the senate, the chairpersons and ranking minority members of the standing committees of the house of representatives and the senate that consider education legislation, the state board of education, and the superintendent of public instruction.

(E) Each school district and chartered nonpublic school retains the authority to require an even more challenging minimum curriculum for high school graduation than specified in division (B) or (C) of this section. A school district board of education, through the adoption of a resolution, or the governing authority of a chartered nonpublic school may stipulate any of the following:

(1) A minimum high school curriculum that requires more than twenty units of academic credit to graduate;

(2) An exception to the district's or school's minimum high school curriculum that is comparable to the exception provided in division (D) of this section but with additional requirements, which may include a requirement that the student successfully complete more than the minimum curriculum prescribed in division (B) of this section;

(3) That no exception comparable to that provided in division (D) of this section is available.

(F) A student enrolled in a dropout prevention and recovery program, which program has received a waiver from the department, may qualify for graduation from high school by successfully completing a competency-based instructional program administered by the dropout prevention and recovery program in lieu of completing the requirements for graduation prescribed in division (C) of this section. The department shall grant a waiver to a dropout prevention and recovery program, within sixty days after the program applies for the waiver, if the program meets all of the following conditions:

(1) The program serves only students not younger than sixteen years of age and not older than twenty-one years of age.

(2) The program enrolls students who, at the time of their initial enrollment, either, or both, are at least one grade level behind their cohort age groups or experience crises that significantly interfere with their academic progress such that they are prevented from continuing their traditional programs.

(3) The program requires students to attain at least the applicable score designated for each of the assessments prescribed under division (B)(1) of section 3301.0710 of the Revised Code or, to the extent prescribed by rule of the state board under division (D)(5) of section 3301.0712 of the Revised Code, division (B)(2) of that section.

(4) The program develops a student success plan for the student in the manner described in division (C)(1) of section 3313.6020 of the Revised Code that specifies the student's matriculating to a two-year degree program, acquiring a business and industry-recognized credential, or entering an apprenticeship.

(5) The program provides counseling and support for the student related to the plan

developed under division (F)(4) of this section during the remainder of the student's high school experience.

(6) The program requires the student and the student's parent, guardian, or custodian to sign and file, in accordance with procedural requirements stipulated by the program, a written statement asserting the parent's, guardian's, or custodian's consent to the student's graduating without completing the requirements for graduation prescribed in division (C) of this section and acknowledging that one consequence of not completing those requirements is ineligibility to enroll in most state universities in Ohio without further coursework.

(7) Prior to receiving the waiver, the program has submitted to the department an instructional plan that demonstrates how the academic content standards adopted by the state board under section 3301.079 of the Revised Code will be taught and assessed.

(8) Prior to receiving the waiver, the program has submitted to the department a policy on career advising that satisfies the requirements of section 3313.6020 of the Revised Code, with an emphasis on how every student will receive career advising.

(9) Prior to receiving the waiver, the program has submitted to the department a written agreement outlining the future cooperation between the program and any combination of local job training, postsecondary education, nonprofit, and health and social service organizations to provide services for students in the program and their families.

Divisions (F)(8) and (9) of this section apply only to waivers granted on or after July 1, 2015.

If the department does not act either to grant the waiver or to reject the program application for the waiver within sixty days as required under this section, the waiver shall be considered to be granted.

(G) Every high school may permit students below the ninth grade to take advanced work. If a high school so permits, it shall award high school credit for successful completion of the advanced work and shall count such advanced work toward the graduation requirements of division (B) or (C) of this section if the advanced work was both:

(1) Taught by a person who possesses a license or certificate issued under section 3301.071, 3319.22, or 3319.222 of the Revised Code that is valid for teaching high school;

(2) Designated by the board of education of the city, local, or exempted village school district, the board of the cooperative education school district, or the governing authority of the chartered nonpublic school as meeting the high school curriculum requirements.

Each high school shall record on the student's high school transcript all high school credit awarded under division (G) of this section. In addition, if the student completed a seventh- or eighth-grade fine arts course described in division (K) of this section and the course qualified for high school credit under that division, the high school shall record that course on the student's high school transcript.

(H) The department shall make its individual academic career plan available through its Ohio career information system web site for districts and schools to use as a tool for communicating with and providing guidance to students and families in selecting high school courses.

(I) A school district or chartered nonpublic school may integrate academic content in a subject area for which the state board has adopted standards under section 3301.079 of the Revised Code into a course in a different subject area, including a career-technical education course, in

accordance with guidance for integrated coursework developed by the department. Upon successful completion of an integrated course, a student may receive credit for both subject areas that were integrated into the course. Units earned for subject area content delivered through integrated academic and career-technical instruction are eligible to meet the graduation requirements of division (B) or (C) of this section.

For purposes of meeting graduation requirements, if an end-of-course examination has been prescribed under section 3301.0712 of the Revised Code for the subject area delivered through integrated instruction, the school district or school may administer the related subject area examinations upon the student's completion of the integrated course.

Nothing in division (I) of this section shall be construed to excuse any school district, chartered nonpublic school, or student from any requirement in the Revised Code related to curriculum, assessments, or the awarding of a high school diploma.

(J)(1) The state board, in consultation with the chancellor, shall adopt a statewide plan implementing methods for students to earn units of high school credit based on a demonstration of subject area competency, instead of or in combination with completing hours of classroom instruction. The state board shall adopt the plan not later than March 31, 2009, and commence phasing in the plan during the 2009-2010 school year. The plan shall include a standard method for recording demonstrated proficiency on high school transcripts. Each school district and community school shall comply with the state board's plan adopted under this division and award units of high school credit in accordance with the plan. The state board may adopt existing methods for earning high school credit based on a demonstration of subject area competency as necessary prior to the 2009-2010 school year.

(2) Not later than December 31, 2015, the state board shall update the statewide plan adopted pursuant to division (J)(1) of this section to also include methods for students enrolled in seventh and eighth grade to meet curriculum requirements based on a demonstration of subject area competency, instead of or in combination with completing hours of classroom instruction. Beginning with the 2017-2018 school year, each school district and community school also shall comply with the updated plan adopted pursuant to this division and permit students enrolled in seventh and eighth grade to meet curriculum requirements based on subject area competency in accordance with the plan.

(3) Not later than December 31, 2017, the department shall develop a framework for school districts and community schools to use in granting units of high school credit to students who demonstrate subject area competency through work-based learning experiences, internships, or cooperative education. Beginning with the 2018-2019 school year, each district and community school shall comply with the framework. Each district and community school also shall review any policy it has adopted regarding the demonstration of subject area competency to identify ways to incorporate work-based learning experiences, internships, and cooperative education into the policy in order to increase student engagement and opportunities to earn units of high school credit.

(K) This division does not apply to students who qualify for graduation from high school under division (D) or (F) of this section, or to students pursuing a career-technical instructional track as determined by the school district board of education or the chartered nonpublic school's governing authority. Nevertheless, the general assembly encourages such students to consider enrolling in a fine



arts course as an elective.

Beginning with students who enter ninth grade for the first time on or after July 1, 2010, each student enrolled in a public or chartered nonpublic high school shall complete two semesters or the equivalent of fine arts to graduate from high school. The coursework may be completed in any of grades seven to twelve. Each student who completes a fine arts course in grade seven or eight may elect to count that course toward the five units of electives required for graduation under division (C)(8) of this section, if the course satisfied the requirements of division (G) of this section. In that case, the high school shall award the student high school credit for the course and count the course toward the five units required under division (C)(8) of this section. If the course in grade seven or eight did not satisfy the requirements of division (G) of this section, the high school shall not award the student high school credit for the course but shall count the course toward the two semesters or the equivalent of fine arts required by this division.

(L) Notwithstanding anything to the contrary in this section, the board of education of each school district and the governing authority of each chartered nonpublic school may adopt a policy to excuse from the high school physical education requirement each student who, during high school, has participated in interscholastic athletics, marching band, or cheerleading for at least two full seasons or in the junior reserve officer training corps for at least two full school years. If the board or authority adopts such a policy, the board or authority shall not require the student to complete any physical education course as a condition to graduate. However, the student shall be required to complete one-half unit, consisting of at least sixty hours of instruction, in another course of study. In the case of a student who has participated in the junior reserve officer training corps for at least two full school years, credit received for that participation may be used to satisfy the requirement to complete one-half unit in another course of study.

(M) It is important that high school students learn and understand United States history and the governments of both the United States and the state of Ohio. Therefore, beginning with students who enter ninth grade for the first time on or after July 1, 2012, the study of American history and American government required by divisions (B)(6) and (C)(6) of this section shall include the study of all of the following documents:

- (1) The Declaration of Independence;
- (2) The Northwest Ordinance;
- (3) The Constitution of the United States with emphasis on the Bill of Rights;
- (4) The Ohio Constitution.

The study of each of the documents prescribed in divisions (M)(1) to (4) of this section shall include study of that document in its original context.

The study of American history and government required by divisions (B)(6) and (C)(6) of this section shall include the historical evidence of the role of documents such as the Federalist Papers and the Anti-Federalist Papers to firmly establish the historical background leading to the establishment of the provisions of the Constitution and Bill of Rights.

(N) A student may apply one unit of instruction in computer science to satisfy one unit of mathematics or one unit of science under division (C) of this section as the student chooses, regardless of the field of certification of the teacher who teaches the course, so long as that teacher meets the licensure requirements prescribed by section 3319.236 of the Revised Code and, prior to

teaching the course, completes a professional development program determined to be appropriate by the district board.

If a student applies more than one computer science course to satisfy curriculum requirements under that division, the courses shall be sequential and progressively more difficult or cover different subject areas within computer science.

**Sec. 3313.608.** (A)(1) Beginning with students who enter third grade in the school year that starts July 1, 2009, and until June 30, 2013, unless the student is excused under division (C) of section 3301.0711 of the Revised Code from taking the assessment described in this section, for any student who does not attain at least the equivalent level of achievement designated under division (A)(3) of section 3301.0710 of the Revised Code on the assessment prescribed under that section to measure skill in English language arts expected at the end of third grade, each school district, in accordance with the policy adopted under section 3313.609 of the Revised Code, shall do one of the following:

(a) Promote the student to fourth grade if the student's principal and reading teacher agree that other evaluations of the student's skill in reading demonstrate that the student is academically prepared to be promoted to fourth grade;

(b) Promote the student to fourth grade but provide the student with intensive intervention services in fourth grade;

(c) Retain the student in third grade.

(2) Beginning with students who enter third grade in the 2013-2014 school year, unless the student is excused under division (C) of section 3301.0711 of the Revised Code from taking the assessment described in this section, no school district shall promote to fourth grade any student who does not attain at least the equivalent level of achievement designated under division (A)(3) of section 3301.0710 of the Revised Code on the assessment prescribed under that section to measure skill in English language arts expected at the end of third grade, unless one of the following applies:

(a) The student is a limited English proficient student who has been enrolled in United States schools for less than three full school years and has had less than three years of instruction in an English as a second language program.

(b) The student is a child with a disability entitled to special education and related services under Chapter 3323. of the Revised Code and the student's individualized education program exempts the student from retention under this division.

(c) The student demonstrates an acceptable level of performance on an alternative standardized reading assessment as determined by the department of education.

(d) All of the following apply:

(i) The student is a child with a disability entitled to special education and related services under Chapter 3323. of the Revised Code.

(ii) The student has taken the third grade English language arts achievement assessment prescribed under section 3301.0710 of the Revised Code.

(iii) The student's individualized education program or plan under section 504 of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C. 794, as amended, shows that the student has received intensive remediation in reading for two school years but still demonstrates a deficiency in reading.

(iv) The student previously was retained in any of grades kindergarten to three.

(e)(i) The student received intensive remediation for reading for two school years but still demonstrates a deficiency in reading and was previously retained in any of grades kindergarten to three.

(ii) A student who is promoted under division (A)(2)(e)(i) of this section shall continue to receive intensive reading instruction in grade four. The instruction shall include an altered instructional day that includes specialized diagnostic information and specific research-based reading strategies for the student that have been successful in improving reading among low-performing readers.

(B)(1) Beginning in the 2012-2013 school year, to assist students in meeting the third grade guarantee established by this section, each school district board of education shall adopt policies and procedures with which it annually shall assess the reading skills of each student, except those students with significant cognitive disabilities or other disabilities as authorized by the department on a case-by-case basis, enrolled in kindergarten to third grade and shall identify students who are reading below their grade level. The reading skills assessment shall be completed by the thirtieth day of September for students in grades one to three, and by the first day of November for students in kindergarten. Each district shall use the diagnostic assessment to measure reading ability for the appropriate grade level adopted under section 3301.079 of the Revised Code, or a comparable tool approved by the department of education, to identify such students. The policies and procedures shall require the students' classroom teachers to be involved in the assessment and the identification of students reading below grade level. The assessment may be administered electronically using live, two-way video and audio connections whereby the teacher administering the assessment may be in a separate location from the student.

(2) For each student identified by the diagnostic assessment prescribed under this section as having reading skills below grade level, the district shall do both of the following:

(a) Provide to the student's parent or guardian, in writing, all of the following:

(i) Notification that the student has been identified as having a substantial deficiency in reading;

(ii) A description of the current services that are provided to the student;

(iii) A description of the proposed supplemental instructional services and supports that will be provided to the student that are designed to remediate the identified areas of reading deficiency;

(iv) Notification that if the student attains a score in the range designated under division (A)(3) of section 3301.0710 of the Revised Code on the assessment prescribed under that section to measure skill in English language arts expected at the end of third grade, the student shall be retained unless the student is exempt under division (A) of this section. The notification shall specify that the assessment under section 3301.0710 of the Revised Code is not the sole determinant of promotion and that additional evaluations and assessments are available to the student to assist parents and the district in knowing when a student is reading at or above grade level and ready for promotion.

(b) Provide intensive reading instruction services and regular diagnostic assessments to the student immediately following identification of a reading deficiency until the development of the reading improvement and monitoring plan required by division (C) of this section. These intervention services shall include research-based reading strategies that have been shown to be successful in

improving reading among low-performing readers and instruction targeted at the student's identified reading deficiencies.

(3) For each student retained under division (A) of this section, the district shall do all of the following:

(a) Provide intense remediation services until the student is able to read at grade level. The remediation services shall include intensive interventions in reading that address the areas of deficiencies identified under this section including, but not limited to, not less than ninety minutes of reading instruction per day, and may include any of the following:

- (i) Small group instruction;
- (ii) Reduced teacher-student ratios;
- (iii) More frequent progress monitoring;
- (iv) Tutoring or mentoring;
- (v) Transition classes containing third and fourth grade students;
- (vi) Extended school day, week, or year;
- (vii) Summer reading camps.

(b) Establish a policy for the mid-year promotion of a student retained under division (A) of this section who demonstrates that the student is reading at or above grade level;

(c) Provide each student with a teacher who satisfies one or more of the criteria set forth in division (H) of this section.

The district shall offer the option for students to receive applicable services from one or more providers other than the district. Providers shall be screened and approved by the district or the department of education. If the student participates in the remediation services and demonstrates reading proficiency in accordance with standards adopted by the department prior to the start of fourth grade, the district shall promote the student to that grade.

(4) For each student retained under division (A) of this section who has demonstrated proficiency in a specific academic ability field, each district shall provide instruction commensurate with student achievement levels in that specific academic ability field.

As used in this division, "specific academic ability field" has the same meaning as in section 3324.01 of the Revised Code.

(C) For each student required to be provided intervention services under this section, the district shall develop a reading improvement and monitoring plan within sixty days after receiving the student's results on the diagnostic assessment or comparable tool administered under division (B) (1) of this section. The district shall involve the student's parent or guardian and classroom teacher in developing the plan. The plan shall include all of the following:

- (1) Identification of the student's specific reading deficiencies;
- (2) A description of the additional instructional services and support that will be provided to the student to remediate the identified reading deficiencies;
- (3) Opportunities for the student's parent or guardian to be involved in the instructional services and support described in division (C)(2) of this section;
- (4) A process for monitoring the extent to which the student receives the instructional services and support described in division (C)(2) of this section;
- (5) A reading curriculum during regular school hours that does all of the following:

- (a) Assists students to read at grade level;
- (b) Provides scientifically based and reliable assessment;
- (c) Provides initial and ongoing analysis of each student's reading progress.

(6) A statement that if the student does not attain at least the equivalent level of achievement designated under division (A)(3) of section 3301.0710 of the Revised Code on the assessment prescribed under that section to measure skill in English language arts expected by the end of third grade, the student may be retained in third grade.

Each student with a reading improvement and monitoring plan under this division who enters third grade after July 1, 2013, shall be assigned to a teacher who satisfies one or more of the criteria set forth in division (H) of this section.

The district shall report any information requested by the department about the reading improvement monitoring plans developed under this division in the manner required by the department.

(D) Each school district shall report annually to the department on its implementation and compliance with this section using guidelines prescribed by the superintendent of public instruction. The superintendent of public instruction annually shall report to the governor and general assembly the number and percentage of students in grades kindergarten through four reading below grade level based on the diagnostic assessments administered under division (B) of this section and the achievement assessments administered under divisions (A)(1)(a) and (b) of section 3301.0710 of the Revised Code in English language arts, aggregated by school district and building; the types of intervention services provided to students; and, if available, an evaluation of the efficacy of the intervention services provided.

(E) Any summer remediation services funded in whole or in part by the state and offered by school districts to students under this section shall meet the following conditions:

- (1) The remediation methods are based on reliable educational research.
- (2) The school districts conduct assessment before and after students participate in the program to facilitate monitoring results of the remediation services.
- (3) The parents of participating students are involved in programming decisions.

(F) Any intervention or remediation services required by this section shall include intensive, explicit, and systematic instruction.

(G) This section does not create a new cause of action or a substantive legal right for any person.

(H)(1) Except as provided under divisions (H)(2), (3), and (4) of this section, each student described in division (B)(3) or (C) of this section who enters third grade for the first time on or after July 1, 2013, shall be assigned a teacher who has at least one year of teaching experience and who satisfies one or more of the following criteria:

(a) The teacher holds a reading endorsement on the teacher's license and has attained a passing score on the corresponding assessment for that endorsement, as applicable.

(b) The teacher has completed a master's degree program with a major in reading.

(c) The teacher was rated "most effective" for reading instruction consecutively for the most recent two years based on assessments of student growth measures developed by a vendor and that is on the list of student assessments approved by the state board under division (B)(2) of section

3319.112 of the Revised Code.

(d) The teacher was rated "above expected value added," in reading instruction, as determined by criteria established by the department, for the most recent, consecutive two years.

(e) The teacher has earned a passing score on a rigorous test of principles of scientifically research-based reading instruction as approved by the state board.

(f) The teacher holds an educator license for teaching grades pre-kindergarten through three or four through nine issued on or after July 1, 2017.

(2) Notwithstanding division (H)(1) of this section, a student described in division (B)(3) or (C) of this section who enters third grade for the first time on or after July 1, 2013, may be assigned to a teacher with less than one year of teaching experience provided that the teacher meets one or more of the criteria described in divisions (H)(1)(a) to (f) of this section and that teacher is assigned a teacher mentor who meets the qualifications of division (H)(1) of this section.

(3) Notwithstanding division (H)(1) of this section, a student described in division (B)(3) or (C) of this section who enters third grade for the first time on or after July 1, 2013, but prior to July 1, 2016, may be assigned to a teacher who holds an alternative credential approved by the department or who has successfully completed training that is based on principles of scientifically research-based reading instruction that has been approved by the department. Beginning on July 1, 2014, the alternative credentials and training described in division (H)(3) of this section shall be aligned with the reading competencies adopted by the state board of education under section 3301.077 of the Revised Code.

(4) Notwithstanding division (H)(1) of this section, a student described in division (B)(3) or (C) of this section who enters third grade for the first time on or after July 1, 2013, may receive reading intervention or remediation services under this section from an individual employed as a speech-language pathologist who holds a license issued by the state speech and hearing professionals board under Chapter 4753. of the Revised Code and a professional pupil services license as a school speech-language pathologist issued by the state board of education.

(5) A teacher, other than a student's teacher of record, may provide any services required under this section, so long as that other teacher meets the requirements of division (H) of this section and the teacher of record and the school principal agree to the assignment. Any such assignment shall be documented in the student's reading improvement and monitoring plan.

As used in this division, "teacher of record" means the classroom teacher to whom a student is assigned.

(I) Notwithstanding division (H) of this section, a teacher may teach reading to any student who is an English language learner, and has been in the United States for three years or less, or to a student who has an individualized education program developed under Chapter 3323. of the Revised Code if that teacher holds an alternative credential approved by the department or has successfully completed training that is based on principles of scientifically research-based reading instruction that has been approved by the department. Beginning on July 1, 2014, the alternative credentials and training described in this division shall be aligned with the reading competencies adopted by the state board of education under section 3301.077 of the Revised Code.

(J) If, on or after June 4, 2013, a school district or community school cannot furnish the number of teachers needed who satisfy one or more of the criteria set forth in division (H) of this

section for the 2013-2014 school year, the school district or community school shall develop and submit a staffing plan by June 30, 2013. The staffing plan shall include criteria that will be used to assign a student described in division (B)(3) or (C) of this section to a teacher, credentials or training held by teachers currently teaching at the school, and how the school district or community school will meet the requirements of this section. The school district or community school shall post the staffing plan on its web site for the applicable school year.

Not later than March 1, 2014, and on the first day of March in each year thereafter, a school district or community school that has submitted a plan under this division shall submit to the department a detailed report of the progress the district or school has made in meeting the requirements under this section.

A school district or community school may request an extension of a staffing plan beyond the 2013-2014 school year. Extension requests must be submitted to the department not later than the thirtieth day of April prior to the start of the applicable school year. The department may grant extensions valid through the 2015-2016 school year.

Until June 30, 2015, the department annually shall review all staffing plans and report to the state board not later than the thirtieth day of June of each year the progress of school districts and community schools in meeting the requirements of this section.

(K) The department of education shall designate one or more staff members to provide guidance and assistance to school districts and community schools in implementing the third grade guarantee established by this section, including any standards or requirements adopted to implement the guarantee and to provide information and support for reading instruction and achievement.

**Sec. 3313.6010.** The board of education of a school district may contract with public and private providers of academic remediation and intervention in mathematics, science, reading, writing, and social studies for the purpose of assisting pupils in any grade outside of regular school hours.

**Sec. 3313.612.** (A) No nonpublic school chartered by the state board of education shall grant a high school diploma to any person unless, subject to section 3313.614 of the Revised Code, the person has met the assessment requirements of division (A)(1) or (2) of this section, as applicable.

(1) If the person entered the ninth grade prior to July 1, 2014, the person has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments required by that division, or has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(2) If the person entered the ninth grade on or after July 1, 2014, the person has met the requirement prescribed by section 3313.618 or 3313.619 of the Revised Code.

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

(1) Any person with regard to any assessment from which the person was excused pursuant to division (C)(1)(c) of section 3301.0711 of the Revised Code;

(2) Any person who attends a nonpublic school accredited through the independent schools association of the central states, except for a student attending the school under a state scholarship program as defined in section 3301.0711 of the Revised Code;

(3) Any person with regard to the social studies assessment under division (B)(1) of section 3301.0710 of the Revised Code, any American history end-of-course examination and any American government end-of-course examination required under division (B) of section 3301.0712 of the

Revised Code if such an exemption is prescribed by rule of the state board of education under division (D)(3) of section 3301.0712 of the Revised Code, or the citizenship test under former division (B) of section 3301.0710 of the Revised Code as it existed prior to September 11, 2001, if all of the following apply:

- (a) The person is not a citizen of the United States;
- (b) The person is not a permanent resident of the United States;
- (c) The person indicates no intention to reside in the United States after completion of high school.

(C) As used in this division, "limited English proficient student" has the same meaning as in division (C)(3) of section 3301.0711 of the Revised Code.

Notwithstanding division (C)(3) of section 3301.0711 of the Revised Code, no limited English proficient student who has not either attained the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments required by that division, or met the requirement prescribed by section 3313.618 or 3313.619 of the Revised Code, shall be awarded a diploma under this section.

(D) The state board shall not impose additional requirements or assessments for the granting of a high school diploma under this section that are not prescribed by this section.

(E) The department of education shall furnish the assessment administered by a nonpublic school pursuant to division (B)(1) of section 3301.0712 of the Revised Code.

**Sec. 3313.614.** (A) As used in this section, a person "fulfills the curriculum requirement for a diploma" at the time one of the following conditions is satisfied:

(1) The person successfully completes the high school curriculum of a school district, a community school, a chartered nonpublic school, or a correctional institution.

(2) The person successfully completes the individualized education program developed for the person under section 3323.08 of the Revised Code.

(3) A board of education issues its determination under section 3313.611 of the Revised Code that the person qualifies as having successfully completed the curriculum required by the district.

(B) This division specifies the assessment requirements that must be fulfilled as a condition toward granting high school diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 of the Revised Code.

(1) A person who fulfills the curriculum requirement for a diploma before September 15, 2000, is not required to pass any proficiency test or achievement test in science as a condition to receiving a diploma.

(2) A person who began ninth grade for the first time prior to July 1, 2003, is not required to pass the Ohio graduation test prescribed under division (B)(1) of section 3301.0710 or any assessment prescribed under division (B)(2) of that section in any subject as a condition to receiving a diploma once the person has passed the ninth grade proficiency test in the same subject, so long as the person passed the ninth grade proficiency test prior to September 15, 2008. However, any such person who passes the Ohio graduation test in any subject prior to passing the ninth grade proficiency test in the same subject shall be deemed to have passed the ninth grade proficiency test in that subject as a condition to receiving a diploma. For this purpose, the ninth grade proficiency test in citizenship substitutes for the Ohio graduation test in social studies. If a person began ninth grade prior to July 1,



2003, but does not pass a ninth grade proficiency test or the Ohio graduation test in a particular subject before September 15, 2008, and passage of a test in that subject is a condition for the person to receive a diploma, the person must pass the Ohio graduation test instead of the ninth grade proficiency test in that subject to receive a diploma.

(3)(a) Except as provided in division (B)(3)(b) of this section, a person who begins ninth grade for the first time on or after July 1, 2003, in a school district, community school, or chartered nonpublic school is not eligible to receive a diploma based on passage of ninth grade proficiency tests. Each such person who begins ninth grade prior to July 1, 2014, must pass Ohio graduation tests to meet the assessment requirements applicable to that person as a condition to receiving a diploma or satisfy one of the conditions prescribed in division (B)(3)(b) of this section.

(b) A person who began ninth grade for the first time prior to July 1, 2014, shall be eligible to receive a diploma if the person meets the requirement prescribed by section 3313.618 or 3313.619 of the Revised Code.

(c) A person who began ninth grade for the first time prior to July 1, 2014, and who has not attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments required by that division shall be eligible to receive a diploma if the person meets the requirement prescribed by rule of the state board of education as prescribed under division (B)(3)(d) of this section.

(d) Not later than December 31, 2015, the state board of education shall adopt rules prescribing the manner in which a person who began ninth grade for the first time prior to July 1, 2014, may be eligible for a high school diploma by combining the requirement prescribed by section 3313.618 or 3313.619 of the Revised Code and the requirement to attain at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on the assessments required by that division. The rules shall ensure that the combined requirements require a demonstration of mastery that is equivalent or greater to the expectations of the assessments prescribed by division (B)(1) of section 3301.0710 of the Revised Code. The rules shall include the following:

(i) The date by which a person who began ninth grade for the first time prior to July 1, 2014, may be eligible for a high school diploma under division (B)(3)(c) of this section;

(ii) Methods of replacing individual assessments prescribed by division (B)(1) of section 3301.0710 of the Revised Code;

(iii) Methods of integrating the pathways prescribed by division (A) of section 3313.618 or section 3313.619 of the Revised Code.

(4) Except as provided in division (B)(3)(b) of this section, a person who begins ninth grade on or after July 1, 2014, is not eligible to receive a diploma based on passage of the Ohio graduation tests. Each such person must meet the requirement prescribed by section 3313.618 or 3313.619 of the Revised Code.

(C) This division specifies the curriculum requirement that shall be completed as a condition toward granting high school diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 of the Revised Code.

(1) A person who is under twenty-two years of age when the person fulfills the curriculum requirement for a diploma shall complete the curriculum required by the school district or school

issuing the diploma for the first year that the person originally enrolled in high school, except for a person who qualifies for graduation from high school under either division (D) or (F) of section 3313.603 of the Revised Code.

(2) Once a person fulfills the curriculum requirement for a diploma, the person is never required, as a condition of receiving a diploma, to meet any different curriculum requirements that take effect pending the person's passage of proficiency tests or achievement tests or assessments, including changes mandated by section 3313.603 of the Revised Code, the state board, a school district board of education, or a governing authority of a community school or chartered nonpublic school.

**Sec. 3313.615.** This section shall apply to diplomas awarded after September 15, 2006, to students who are required to take the five Ohio graduation tests prescribed by division (B)(1) of section 3301.0710 of the Revised Code. This section does not apply to any student who enters ninth grade for the first time on or after July 1, 2014.

(A) As an alternative to the requirement that a person attain the scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments required under that division in order to be eligible for a high school diploma or an honors diploma under sections 3313.61, 3313.612, or 3325.08 of the Revised Code or for a diploma of adult education under section 3313.611 of the Revised Code, a person who has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all but one of the assessments required by that division and from which the person was not excused or exempted, pursuant to division (L) of section 3313.61, division (B)(1) of section 3313.612, or section 3313.532 of the Revised Code, may be awarded a diploma or honors diploma if the person has satisfied all of the following conditions:

(1) On the one assessment required under division (B)(1) of section 3301.0710 of the Revised Code for which the person failed to attain the designated score, the person missed that score by ten points or less;

(2) Has a ninety-seven per cent school attendance rate in each of the last four school years, excluding any excused absences;

(3) Has not been expelled from school under section 3313.66 of the Revised Code in any of the last four school years;

(4) Has a grade point average of at least 2.5 out of 4.0, or its equivalent as designated in rules adopted by the state board of education, in the subject area of the assessment required under division (B)(1) of section 3301.0710 of the Revised Code for which the person failed to attain the designated score;

(5) Has completed the high school curriculum requirements prescribed in section 3313.603 of the Revised Code or has qualified under division (D) or (F) of that section;

(6) Has taken advantage of any intervention programs provided by the school district or school in the subject area described in division (A)(4) of this section and has a ninety-seven per cent attendance rate, excluding any excused absences, in any of those programs that are provided at times beyond the normal school day, school week, or school year or has received comparable intervention services from a source other than the school district or school;

(7) Holds a letter recommending graduation from each of the person's high school teachers in

the subject area described in division (A)(4) of this section and from the person's high school principal.

(B) The state board of education shall establish rules designating grade point averages equivalent to the average specified in division (A)(4) of this section for use by school districts and schools with different grading systems.

(C) Any student who is exempt from attaining the applicable score designated under division (B)(1) of section 3301.0710 of the Revised Code on the Ohio graduation test in social studies pursuant to division (H) of section 3313.61 or division (B)(3) of section 3313.612 of the Revised Code shall not qualify for a high school diploma under this section, unless, notwithstanding the exemption, the student attains the applicable score on that assessment. If the student attains the applicable score on that assessment, the student may qualify for a diploma under this section in the same manner as any other student who is required to take the five Ohio graduation tests prescribed by division (B)(1) of section 3301.0710 of the Revised Code.

**Sec. 3313.617.** (A) A person who meets all of the following criteria shall be permitted to take the tests of general educational development:

(1) The person is at least eighteen years of age.

(2) The person is officially withdrawn from school.

(3) The person has not received a high school diploma or honors diploma awarded under section 3313.61, 3313.611, 3313.612, or 3325.08 of the Revised Code.

(B) When a person who is at least sixteen years of age but less than eighteen years of age applies to the department of education to take the tests of general educational development, the person shall submit with the application written approval from the person's parent or guardian or a court official.

(C) For the purpose of calculating graduation rates for the school district and building report cards under section 3302.03 of the Revised Code, the department shall count any person for whom approval is obtained from the person's parent or guardian or a court official under division (B) of this section as a dropout from the district or school in which the person was last enrolled prior to obtaining the approval.

**Sec. 3313.619.**

**Sec. 3313.6110.**

**Sec. 3313.674.** (A) Except as provided in division (D) of this section, the board of education of each city, exempted village, or local school district and the governing authority of each chartered nonpublic school may require each student enrolled in kindergarten, third grade, fifth grade, and ninth grade to undergo a screening for body mass index and weight status category.

(B) The board or governing authority may provide any screenings authorized by this section itself, contract with another entity for provision of the screenings, or request the parent or guardian of each student subject to the screening to obtain the screening from a provider selected by the parent or guardian and to submit the results to the board or governing authority. If the board or governing authority provides the screenings itself or contracts with another entity for provision of the screenings, the board or governing authority shall protect student privacy by ensuring that each student is screened alone and not in the presence of other students or staff.

(C) Each school year, each board or governing authority electing to require the screening

shall provide the parent or guardian of each student subject to the screening with information about the screening program. If the board or governing authority requests parents and guardians to obtain a screening from a provider of their choosing, the board or governing authority shall provide them with a list of providers and information about screening services available in the community to parents and guardians who cannot afford a private provider.

(D) If the parent or guardian of a student subject to the screening signs and submits to the board or governing authority a written statement indicating that the parent or guardian does not wish to have the student undergo the screening, the board or governing authority shall not require the student to be screened.

(E) The board or governing authority shall notify the parent or guardian of each student screened under this section of any health risks associated with the student's results and shall provide the parent or guardian with information about appropriately addressing the risks. For this purpose, the department of health, in consultation with the department of education, shall develop a list of documents, pamphlets, or other resources that may be distributed to parents and guardians under this division.

(F) The board or governing authority shall maintain the confidentiality of each student's individual screening results at all times. No board or governing authority shall report a student's individual screening results to any person other than the student's parent or guardian.

(G) In a manner prescribed by rule of the director of health, each board or governing authority electing to require the screening shall report aggregated body mass index and weight status category data collected under this section, and any other demographic data required by the director, to the department of health. In the case of a school district, data shall be aggregated for the district as a whole and not for individual schools within the district, unless the district operates only one school. In the case of a chartered nonpublic school, data shall be aggregated for the school as a whole. The department annually may publish the data reported under this division, aggregated by county. For each county in which a district, community school, STEM school, or chartered nonpublic school has elected not to require the screening for a school year for which data is published, the department shall note that the data for the county in which the district or school is located is incomplete. The department may share data reported under this division with other governmental entities for the purpose of monitoring population health, making reports, or public health promotional activities.

**Sec. 3313.68.** (A) The board of education of each city, exempted village, or local school district may appoint one or more school physicians and one or more school dentists. Two or more school districts may unite and employ one such physician and at least one such dentist whose duties shall be such as are prescribed by law. Said school physician shall hold a license to practice medicine in Ohio, and each school dentist shall be licensed to practice in this state. School physicians and dentists may be discharged at any time by the board of education. School physicians and dentists shall serve one year and until their successors are appointed and shall receive such compensation as the board of education determines. The board of education may also employ registered nurses, as defined by section 4723.01 and licensed as school nurses under section 3319.221 of the Revised Code, to aid in such inspection in such ways as are prescribed by it, and to aid in the conduct and coordination of the school health service program. The school dentists shall make such examinations and diagnoses and render such remedial or corrective treatment for the school children as is

prescribed by the board of education; provided that all such remedial or corrective treatment shall be limited to the children whose parents cannot otherwise provide for same, and then only with the written consent of the parents or guardians of such children. School dentists may also conduct such oral hygiene educational work as is authorized by the board of education.

The board of education may delegate the duties and powers provided for in this section to the board of health or officer performing the functions of a board of health within the school district, if such board or officer is willing to assume the same. Boards of education shall co-operate with boards of health in the prevention and control of epidemics.

(B) Notwithstanding any provision of the Revised Code to the contrary, the board of education of each city, exempted village, or local school district may contract with an educational service center for the services of a school nurse, licensed under section 3319.221 of the Revised Code, or of a registered nurse or licensed practical nurse, licensed under Chapter 4723. of the Revised Code, to provide services to students in the district pursuant to section 3313.7112 of the Revised Code.

(C) In lieu of appointing or employing a school physician or dentist pursuant to division (A) of this section or entering into a contract for the services of a school nurse pursuant to division (B) of this section, the board of education of each city, exempted village, or local school district may enter into a contract under section 3313.721 of the Revised Code for the purpose of providing health care services to students.

**Sec. 3313.72.** The board of education of a city, exempted village, or local school district may enter into a contract with a health district for the purpose of providing the services of a school physician, dentist, or nurse. The board may also enter into a contract under section 3313.721 of the Revised Code for the purpose of providing health care services to students.

**Sec. 3313.721.**

**Sec. 3313.902.** (A) As used in this section:

(1) "Approved industry credential or certificate" means a credential or certificate that is approved by the chancellor of higher education.

(2) "Approved institution" means an eligible institution that has been approved to participate in the adult diploma pilot program under this section.

(3) "Approved program of study" means a program of study offered by an approved institution that satisfies the requirements of division (B) of this section.

(4) An eligible student's "career pathway training program amount" means the following:

- (a) If the student is enrolled in a tier one career pathway training program, \$4,800;
- (b) If the student is enrolled in a tier two career pathway training program, \$3,200;
- (c) If the student is enrolled in a tier three career pathway training program, \$1,600.

(5) "Eligible institution" means any of the following:

- (a) A community college established under Chapter 3354. of the Revised Code;
- (b) A technical college established under Chapter 3357. of the Revised Code;
- (c) A state community college established under Chapter 3358. of the Revised Code;
- (d) An Ohio technical center recognized by the chancellor that provides post-secondary workforce education.

(6) "Eligible student" means an individual who is at least twenty-two years of age and has not

received a high school diploma or a certificate of high school equivalence, as defined in section 4109.06 of the Revised Code.

(7) A "tier one career pathway training program" is a career pathway training program that requires more than six hundred hours of technical training, as determined by the department of education.

(8) A "tier two career pathway training program" is a career pathway training program that requires more than three hundred hours of technical training but less than six hundred hours of technical training, as determined by the department.

(9) A "tier three career pathway training program" is a career pathway training program that requires three hundred hours or less of technical training, as determined by the department.

(10) An eligible student's "work readiness training amount" means the following:

(a) If the student's grade level upon initial enrollment in an approved program of study at an approved institution is below the ninth grade, as determined in accordance with rules adopted under division (E) of this section, \$1,500.

(b) If the student's grade level upon initial enrollment in an approved program of study at an approved institution is at or above the ninth grade, as determined in accordance with rules adopted under division (E) of this section, \$750.

(B) The adult diploma pilot program is hereby established to permit an eligible institution to obtain approval from the superintendent of public instruction and the chancellor to develop and offer a program of study that allows an eligible student to obtain a high school diploma. A program shall be eligible for this approval if it satisfies all of the following requirements:

(1) The program allows an eligible student to complete the requirements for obtaining a high school diploma that are specified in rules adopted by the superintendent under division (E) of this section while also completing requirements for an approved industry credential or certificate.

(2) The program includes career advising and outreach.

(3) The program includes opportunities for students to receive a competency-based education.

(C) Notwithstanding sections 3313.61, 3313.611, 3313.613, 3313.614, 3313.618, and 3313.619 of the Revised Code, the state board of education shall grant a high school diploma to each eligible student who enrolls in an approved program of study at an approved institution and completes the requirements for obtaining a high school diploma that are specified in rules adopted by the superintendent under division (E) of this section.

(D)(1) The department shall calculate the following amount for each eligible student enrolled in each approved institution's approved program of study:

(The student's career pathway training program amount + the student's work readiness training amount) X 1.2

(2) Except as provided in division (D)(4) of this section, the department shall pay the amount calculated for an eligible student under division (D)(1) of this section to the approved institution in which the student is enrolled in the following manner:

(a) Twenty-five per cent of the amount calculated under division (D)(1) of this section shall be paid to the approved institution after the student successfully completes the first third of the

approved program of study, as determined by the department;

(b) Twenty-five per cent of the amount calculated under division (D)(1) of this section shall be paid to the approved institution after the student successfully completes the second third of the approved program of study, as determined by the department;

(c) Fifty per cent of the amount calculated under division (D)(1) of this section shall be paid to the approved institution after the student successfully completes the final third of the approved program of study, as determined by the department.

(3) Of the amount paid to an approved institution under division (D)(2) of this section, the institution may use the amount that is in addition to the student's career pathway training amount and the student's work readiness training amount for the associated services of the approved program of study. These services include counseling, advising, assessment, and other services as determined or required by the department.

(4) If the superintendent and the chancellor determine that it is appropriate for an entity other than the department to make full or partial payments for an eligible student under division (D)(2) of this section, that entity shall make those payments and the department shall not make those payments.

(E) The superintendent, in consultation with the chancellor, shall adopt rules for the implementation of the adult diploma pilot program, including all of the following:

(1) The requirements for applying for program approval;

(2) The requirements for obtaining a high school diploma through the program, including the requirement to obtain a passing score on an assessment that is appropriate for the career pathway training program that is being completed by the eligible student, and the date on which these requirements take effect;

(3) The assessment or assessments that may be used to complete the assessment requirement for each career pathway training program under division (E)(2) of this section and the score that must be obtained on each assessment in order to pass the assessment;

(4) Guidelines regarding the funding of the program under division (D) of this section, including a method of funding for students who transfer from one approved institution to another approved institution prior to completing an approved program of study;

(5) Circumstances under which an eligible student may be charged for tuition, supplies, or associated fees while enrolled in an approved institution's approved program of study;

(6) A requirement that an eligible student may not be charged for tuition, supplies, or associated fees while enrolled in an approved institution's approved program of study except in the circumstances described under division (E)(5) of this section;

(7) The payment of federal funds that are to be used by approved programs of study at approved institutions.

**Sec. 3313.975.** As used in this section and in sections 3313.976 to 3313.979 of the Revised Code, "the pilot project school district" or "the district" means any school district included in the pilot project scholarship program pursuant to this section.

(A) The superintendent of public instruction shall establish a pilot project scholarship program and shall include in such program any school districts that are or have ever been under federal court order requiring supervision and operational management of the district by the state

superintendent. The program shall provide for a number of students residing in any such district to receive scholarships to attend alternative schools, and for an equal number of students to receive tutorial assistance grants while attending public school in any such district.

(B) The state superintendent shall establish an application process and deadline for accepting applications from students residing in the district to participate in the scholarship program. In the initial year of the program students may only use a scholarship to attend school in grades kindergarten through third.

The state superintendent shall award as many scholarships and tutorial assistance grants as can be funded given the amount appropriated for the program.

(C)(1) The pilot project program shall continue in effect each year that the general assembly has appropriated sufficient money to fund scholarships and tutorial assistance grants. In each year the program continues, new students may receive scholarships in grades kindergarten to twelve. A student who has received a scholarship may continue to receive one until the student has completed grade twelve.

(2) If the general assembly discontinues the scholarship program, all students who are attending an alternative school under the pilot project shall be entitled to continued admittance to that specific school through all grades that are provided in such school, under the same conditions as when they were participating in the pilot project. The state superintendent shall continue to make scholarship payments in accordance with division (A) or (B) of section 3313.979 of the Revised Code for students who remain enrolled in an alternative school under this provision in any year that funds have been appropriated for this purpose.

If funds are not appropriated, the tuition charged to the parents of a student who remains enrolled in an alternative school under this provision shall not be increased beyond the amount equal to the amount of the scholarship plus any additional amount charged that student's parent in the most recent year of attendance as a participant in the pilot project, except that tuition for all the students enrolled in such school may be increased by the same percentage.

(D) Notwithstanding sections 124.39 and 3311.83 of the Revised Code, if the pilot project school district experiences a decrease in enrollment due to participation in a state-sponsored scholarship program pursuant to sections 3313.974 to 3313.979 of the Revised Code, the district board of education may enter into an agreement with any teacher it employs to provide to that teacher severance pay or early retirement incentives, or both, if the teacher agrees to terminate the employment contract with the district board, provided any collective bargaining agreement in force pursuant to Chapter 4117. of the Revised Code does not prohibit such an agreement for termination of a teacher's employment contract.

**Sec. 3313.976.** (A) No private school may receive scholarship payments from parents pursuant to section 3313.979 of the Revised Code until the chief administrator of the private school registers the school with the superintendent of public instruction. The state superintendent shall register any school that meets the following requirements:

(1) The school either:

(a) Offers any of grades kindergarten through twelve and is located within the boundaries of the pilot project school district;

(b) Offers any of grades nine through twelve and is located within the boundaries of a city,



local, or exempted village school district that is both:

- (i) Located in a municipal corporation with a population of fifteen thousand or more;
  - (ii) Located within five miles of the border of the pilot project school district.
- (2) The school indicates in writing its commitment to follow all requirements for a state-sponsored scholarship program specified under sections 3313.974 to 3313.979 of the Revised Code, including, but not limited to, the requirements for admitting students pursuant to section 3313.977 of the Revised Code;
- (3) The school meets all state minimum standards for chartered nonpublic schools in effect on July 1, 1992, except that the state superintendent at the superintendent's discretion may register nonchartered nonpublic schools meeting the other requirements of this division;
- (4) The school does not discriminate on the basis of race, religion, or ethnic background;
- (5) The school enrolls a minimum of ten students per class or a sum of at least twenty-five students in all the classes offered;
- (6) The school does not advocate or foster unlawful behavior or teach hatred of any person or group on the basis of race, ethnicity, national origin, or religion;
- (7) The school does not provide false or misleading information about the school to parents, students, or the general public;
- (8) For students in grades kindergarten through eight with family incomes at or below two hundred per cent of the federal poverty guidelines, as defined in section 5104.46 of the Revised Code, the school agrees not to charge any tuition in excess of the scholarship amount established pursuant to division (C)(1) of section 3313.978 of the Revised Code, excluding any increase described in division (C)(2) of that section.
- (9) For students in grades kindergarten through eight with family incomes above two hundred per cent of the federal poverty guidelines, whose scholarship amounts are less than the actual tuition charge of the school, the school agrees not to charge any tuition in excess of the difference between the actual tuition charge of the school and the scholarship amount established pursuant to division (C)(1) of section 3313.978 of the Revised Code, excluding any increase described in division (C)(2) of that section. The school shall permit such tuition, at the discretion of the parent, to be satisfied by the family's provision of in-kind contributions or services.
- (10) The school agrees not to charge any tuition to families of students in grades nine through twelve receiving a scholarship in excess of the actual tuition charge of the school less the scholarship amount established pursuant to division (C)(1) of section 3313.978 of the Revised Code, excluding any increase described in division (C)(2) of that section.
- (11) Except as provided in divisions (K)(1) and (L) of section 3301.0711 of the Revised Code, it annually administers the applicable assessments prescribed by section 3301.0710, 3301.0712, or 3313.619 of the Revised Code to each scholarship student enrolled in the school in accordance with section 3301.0711 or 3301.0712 of the Revised Code and reports to the department of education the results of each such assessment administered to each scholarship student.
- (B) The state superintendent shall revoke the registration of any school if, after a hearing, the superintendent determines that the school is in violation of any of the provisions of division (A) of this section.
- (C) Any public school located in a school district adjacent to the pilot project district may

receive scholarship payments on behalf of parents pursuant to section 3313.979 of the Revised Code if the superintendent of the district in which such public school is located notifies the state superintendent prior to the first day of March that the district intends to admit students from the pilot project district for the ensuing school year pursuant to section 3327.06 of the Revised Code.

(D) Any parent wishing to purchase tutorial assistance from any person or governmental entity pursuant to the pilot project program under sections 3313.974 to 3313.979 of the Revised Code shall apply to the state superintendent. The state superintendent shall approve providers who appear to possess the capability of furnishing the instructional services they are offering to provide.

**Sec. 3313.981.** (A) The state board of education shall adopt rules requiring all of the following:

(1) The board of education of each city, exempted village, and local school district to annually report to the department of education all of the following:

(a) The number of adjacent district or other district students in grades kindergarten through twelve, as applicable, the number of adjacent district or other district students who are preschool children with disabilities, as applicable, and the number of adjacent district or other district joint vocational students, as applicable, enrolled in the district, in accordance with a policy adopted under division (B) of section 3313.98 of the Revised Code;

(b) The number of native students in grades kindergarten through twelve enrolled in adjacent or other districts and the number of native students who are preschool children with disabilities enrolled in adjacent or other districts, in accordance with a policy adopted under division (B) of section 3313.98 of the Revised Code;

(c) Each adjacent district or other district student's or adjacent district or other district joint vocational student's date of enrollment in the district;

(d) The full-time equivalent number of adjacent district or other district students enrolled in each of the categories of career-technical education programs or classes described in section 3317.014 of the Revised Code;

(e) Each native student's date of enrollment in an adjacent or other district.

(2) The board of education of each joint vocational school district to annually report to the department all of the following:

(a) The number of adjacent district or other district joint vocational students, as applicable, enrolled in the district;

(b) The full-time equivalent number of adjacent district or other district joint vocational students enrolled in each category of career-technical education programs or classes described in section 3317.014 of the Revised Code;

(c) For each adjacent district or other district joint vocational student, the city, exempted village, or local school district in which the student is also enrolled.

(3) Prior to the end of each reporting period specified in section 3317.03 of the Revised Code, the superintendent of each city, local, or exempted village school district that admits adjacent district or other district students who are in grades kindergarten through twelve, adjacent district or other district students who are preschool children with disabilities, or adjacent district or other district joint vocational students in accordance with a policy adopted under division (B) of section 3313.98 of the Revised Code to report to the department of education each adjacent or other district's students

and where those students who are enrolled in the superintendent's district under the policy are entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

The rules shall provide for the method of counting students who are enrolled for part of a school year in an adjacent or other district or as an adjacent district or other district joint vocational student.

(B) From the payments made to a city, exempted village, or local school district under Chapter 3317. of the Revised Code and, if necessary, from the payments made to the district under sections 321.24 and 323.156 of the Revised Code, the department of education shall annually subtract all of the following:

(1) An amount equal to the number of the district's native students in grades kindergarten through twelve reported under division (A)(1) of this section who are enrolled in adjacent or other school districts pursuant to policies adopted by such districts under division (B) of section 3313.98 of the Revised Code multiplied by the formula amount;

(2) The excess costs computed in accordance with division (E) of this section for any such native students in grades kindergarten through twelve receiving special education and related services in adjacent or other school districts or as an adjacent district or other district joint vocational student;

(3) For each of the district's native students reported under division (A)(1)(d) or (2)(b) of this section as enrolled in career-technical education programs or classes described in section 3317.014 of the Revised Code, the per pupil amount prescribed by that section for the student's respective career-technical category, on a full-time equivalency basis;

(4) For each native student who is a preschool child with a disability reported under division (A)(1) of this section who is enrolled in an adjacent or other district pursuant to policies adopted by such a district under division (B) of section 3313.98 of the Revised Code, \$4,000.

(C) To the payments made to a city, exempted village, or local school district under Chapter 3317. of the Revised Code, the department of education shall annually add all of the following:

(1) An amount equal to the formula amount multiplied by the remainder obtained by subtracting the number of adjacent district or other district joint vocational students from the number of adjacent district or other district students in grades kindergarten through twelve enrolled in the district, as reported under division (A)(1) of this section;

(2) The excess costs computed in accordance with division (E) of this section for any adjacent district or other district students in grades kindergarten through twelve, except for any adjacent or other district joint vocational students, receiving special education and related services in the district;

(3) For each of the adjacent or other district students who are not adjacent district or other district joint vocational students and are reported under division (A)(1)(d) of this section as enrolled in career-technical education programs or classes described in section 3317.014 of the Revised Code, the per pupil amount prescribed by that section for the student's respective career-technical category, on a full-time equivalency basis;

(4) An amount equal to the number of adjacent district or other district joint vocational students reported under division (A)(1) of this section multiplied by an amount equal to twenty per cent of the formula amount;

(5) For each adjacent district or other district student who is a preschool child with a

disability reported under division (A)(1) of this section who is enrolled in the district, \$4,000.

(D) To the payments made to a joint vocational school district under Chapter 3317. of the Revised Code, the department of education shall add, for each adjacent district or other district joint vocational student reported under division (A)(2) of this section, both of the following:

(1) The formula amount;

(2) The per pupil amount for each of the students reported pursuant to division (A)(2)(b) of this section prescribed by section 3317.014 of the Revised Code for the student's respective career-technical category, on a full-time equivalency basis.

(E)(1) A city, exempted village, or local school board providing special education and related services to an adjacent or other district student in grades kindergarten through twelve in accordance with an IEP shall, pursuant to rules of the state board, compute the excess costs to educate such student as follows:

(a) Subtract the formula amount from the actual costs to educate the student;

(b) From the amount computed under division (E)(1)(a) of this section subtract the amount of any funds received by the district under Chapter 3317. of the Revised Code to provide special education and related services to the student.

(2) The board shall report the excess costs computed under this division to the department of education.

(3) If any student for whom excess costs are computed under division (E)(1) of this section is an adjacent or other district joint vocational student, the department of education shall add the amount of such excess costs to the payments made under Chapter 3317. of the Revised Code to the joint vocational school district enrolling the student.

(F) As provided in division (D)(1)(b) of section 3317.03 of the Revised Code, no joint vocational school district shall count any adjacent or other district joint vocational student enrolled in the district in its enrollment certified under section 3317.03 of the Revised Code.

(G) No city, exempted village, or local school district shall receive a payment under division (C) of this section for a student, and no joint vocational school district shall receive a payment under division (D) of this section for a student, if for the same school year that student is counted in the district's enrollment certified under section 3317.03 of the Revised Code.

(H) Upon request of a parent, and provided the board offers transportation to native students of the same grade level and distance from school under section 3327.01 of the Revised Code, a city, exempted village, or local school board enrolling an adjacent or other district student shall provide transportation for the student within the boundaries of the board's district, except that the board shall be required to pick up and drop off a nonhandicapped student only at a regular school bus stop designated in accordance with the board's transportation policy. Pursuant to rules of the state board of education, such board may reimburse the parent from funds received for pupil transportation under section 3317.0212 of the Revised Code, or other provisions of law, for the reasonable cost of transportation from the student's home to the designated school bus stop if the student's family has an income below the federal poverty line.

**Sec. 3314.02.** (A) As used in this chapter:

(1) "Sponsor" means the board of education of a school district or the governing board of an educational service center that agrees to the conversion of all or part of a school or building under

division (B) of this section, or an entity listed in division (C)(1) of this section, which has been approved by the department of education to sponsor community schools or is exempted by section 3314.021 or 3314.027 of the Revised Code from obtaining approval, and with which the governing authority of a community school enters into a contract under section 3314.03 of the Revised Code.

(2) "Pilot project area" means the school districts included in the territory of the former community school pilot project established by former Section 50.52 of Am. Sub. H.B. No. 215 of the 122nd general assembly.

(3) "Challenged school district" means any of the following:

(a) A school district that is part of the pilot project area;

(b) A school district that meets one of the following conditions:

(i) On March 22, 2013, the district was in a state of academic emergency or in a state of academic watch under section 3302.03 of the Revised Code, as that section existed prior to March 22, 2013;

(ii) For two of the 2012-2013, 2013-2014, 2014-2015, and 2015-2016 school years, the district received a grade of "D" or "F" for the performance index score and a grade of "F" for the value-added progress dimension under section 3302.03 of the Revised Code;

(iii) For the 2016-2017 school year and for any school year thereafter, the district has received an overall grade of "D" or "F" under division (C)(3) of section 3302.03 of the Revised Code, or, for at least two of the three most recent school years, the district received a grade of "F" for the value-added progress dimension under division (C)(1)(e) of that section.

(c) A big eight school district;

(d) A school district ranked in the lowest five per cent of school districts according to performance index score under section 3302.21 of the Revised Code.

(4) "Big eight school district" means a school district that for fiscal year 1997 had both of the following:

(a) A percentage of children residing in the district and participating in the predecessor of Ohio works first greater than thirty per cent, as reported pursuant to section 3317.10 of the Revised Code;

(b) An average daily membership greater than twelve thousand, as reported pursuant to former division (A) of section 3317.03 of the Revised Code.

(5) "New start-up school" means a community school other than one created by converting all or part of an existing public school or educational service center building, as designated in the school's contract pursuant to division (A)(17) of section 3314.03 of the Revised Code.

(6) "Urban school district" means one of the state's twenty-one urban school districts as defined in division (O) of section 3317.02 of the Revised Code as that section existed prior to July 1, 1998.

(7) "Internet- or computer-based community school" means a community school established under this chapter in which the enrolled students work primarily from their residences on assignments in nonclassroom-based learning opportunities provided via an internet- or other computer-based instructional method that does not rely on regular classroom instruction or via comprehensive instructional methods that include internet-based, other computer-based, and noncomputer-based learning opportunities unless a student receives career-technical education under

section 3314.086 of the Revised Code.

A community school that operates mainly as an internet- or computer-based community school and provides career-technical education under section 3314.086 of the Revised Code shall be considered an internet- or computer-based community school, even if it provides some classroom-based instruction, so long as it provides instruction via the methods described in this division.

(8) "Operator" means either of the following:

(a) An individual or organization that manages the daily operations of a community school pursuant to a contract between the operator and the school's governing authority;

(b) A nonprofit organization that provides programmatic oversight and support to a community school under a contract with the school's governing authority and that retains the right to terminate its affiliation with the school if the school fails to meet the organization's quality standards.

(9) "Alliance municipal school district" has the same meaning as in section 3311.86 of the Revised Code.

(B)(1) Any person or group of individuals may initially propose under this division the conversion of all or a portion of a public school to a community school. The proposal shall be made to the board of education of the city, local, exempted village, or joint vocational school district in which the public school is proposed to be converted.

(2) Any person or group of individuals may initially propose under this division the conversion of all or a portion of a building operated by an educational service center to a community school. The proposal shall be made to the governing board of the service center.

On or after July 1, 2017, except as provided in section 3314.027 of the Revised Code, any educational service center that sponsors a community school shall be approved by and enter into a written agreement with the department as described in section 3314.015 of the Revised Code.

(3) Upon receipt of a proposal, and after an agreement has been entered into pursuant to section 3314.015 of the Revised Code, a board may enter into a preliminary agreement with the person or group proposing the conversion of the public school or service center building, indicating the intention of the board to support the conversion to a community school. A proposing person or group that has a preliminary agreement under this division may proceed to finalize plans for the school, establish a governing authority for the school, and negotiate a contract with the board. Provided the proposing person or group adheres to the preliminary agreement and all provisions of this chapter, the board shall negotiate in good faith to enter into a contract in accordance with section 3314.03 of the Revised Code and division (C) of this section.

(4) The sponsor of a conversion community school proposed to open in an alliance municipal school district shall be subject to approval by the department of education for sponsorship of that school using the criteria established under division (A) of section 3311.87 of the Revised Code.

Division (B)(4) of this section does not apply to a sponsor that, on or before September 29, 2015, was exempted under section 3314.021 or 3314.027 of the Revised Code from the requirement to be approved for sponsorship under divisions (A)(2) and (B)(1) of section 3314.015 of the Revised Code.

(C)(1) Any person or group of individuals may propose under this division the establishment of a new start-up school to be located in a challenged school district. The proposal may be made to any of the following entities:

- (a) The board of education of the district in which the school is proposed to be located;
- (b) The board of education of any joint vocational school district with territory in the county in which is located the majority of the territory of the district in which the school is proposed to be located;
- (c) The board of education of any other city, local, or exempted village school district having territory in the same county where the district in which the school is proposed to be located has the major portion of its territory;
- (d) The governing board of any educational service center, regardless of the location of the proposed school, may sponsor a new start-up school in any challenged school district in the state if all of the following are satisfied:
  - (i) If applicable, it satisfies the requirements of division (E) of section 3311.86 of the Revised Code;
  - (ii) It is approved to do so by the department;
  - (iii) It enters into an agreement with the department under section 3314.015 of the Revised Code.
- (e) A sponsoring authority designated by the board of trustees of any of the thirteen state universities listed in section 3345.011 of the Revised Code or the board of trustees itself as long as a mission of the proposed school to be specified in the contract under division (A)(2) of section 3314.03 of the Revised Code and as approved by the department under division (B)(3) of section 3314.015 of the Revised Code will be the practical demonstration of teaching methods, educational technology, or other teaching practices that are included in the curriculum of the university's teacher preparation program approved by the state board of education;
- (f) Any qualified tax-exempt entity under section 501(c)(3) of the Internal Revenue Code as long as all of the following conditions are satisfied:
  - (i) The entity has been in operation for at least five years prior to applying to be a community school sponsor.
  - (ii) The entity has assets of at least five hundred thousand dollars and a demonstrated record of financial responsibility.
  - (iii) The department has determined that the entity is an education-oriented entity under division (B)(4) of section 3314.015 of the Revised Code and the entity has a demonstrated record of successful implementation of educational programs.
  - (iv) The entity is not a community school.
- (g) The mayor of a city in which the majority of the territory of a school district to which section 3311.60 of the Revised Code applies is located, regardless of whether that district has created the position of independent auditor as prescribed by that section. The mayor's sponsorship authority under this division is limited to community schools that are located in that school district. Such mayor may sponsor community schools only with the approval of the city council of that city, after establishing standards with which community schools sponsored by the mayor must comply, and after entering into a sponsor agreement with the department as prescribed under section 3314.015 of the Revised Code. The mayor shall establish the standards for community schools sponsored by the mayor not later than one hundred eighty days after July 15, 2013, and shall submit them to the department upon their establishment. The department shall approve the mayor to sponsor community

schools in the district, upon receipt of an application by the mayor to do so. Not later than ninety days after the department's approval of the mayor as a community school sponsor, the department shall enter into the sponsor agreement with the mayor.

Any entity described in division (C)(1) of this section may enter into a preliminary agreement pursuant to division (C)(2) of this section with the proposing person or group, provided that entity has been approved by and entered into a written agreement with the department pursuant to section 3314.015 of the Revised Code.

(2) A preliminary agreement indicates the intention of an entity described in division (C)(1) of this section to sponsor the community school. A proposing person or group that has such a preliminary agreement may proceed to finalize plans for the school, establish a governing authority as described in division (E) of this section for the school, and negotiate a contract with the entity. Provided the proposing person or group adheres to the preliminary agreement and all provisions of this chapter, the entity shall negotiate in good faith to enter into a contract in accordance with section 3314.03 of the Revised Code.

(3) A new start-up school that is established in a school district described in either division (A)(3)(b) or (d) of this section may continue in existence once the school district no longer meets the conditions described in either division, provided there is a valid contract between the school and a sponsor.

(4) A copy of every preliminary agreement entered into under this division shall be filed with the superintendent of public instruction.

(D) A majority vote of the board of a sponsoring entity and a majority vote of the members of the governing authority of a community school shall be required to adopt a contract and convert the public school or educational service center building to a community school or establish the new start-up school. Beginning September 29, 2005, adoption of the contract shall occur not later than the fifteenth day of March, and signing of the contract shall occur not later than the fifteenth day of May, prior to the school year in which the school will open. The governing authority shall notify the department of education when the contract has been signed. Subject to sections 3314.013 and 3314.016 of the Revised Code, an unlimited number of community schools may be established in any school district provided that a contract is entered into for each community school pursuant to this chapter.

(E)(1) As used in this division, "immediate relatives" are limited to spouses, children, parents, grandparents, and siblings, as well as in-laws residing in the same household as the person serving on the governing authority.

Each new start-up community school established under this chapter shall be under the direction of a governing authority which shall consist of a board of not less than five individuals.

(2)(a) No person shall serve on the governing authority or operate the community school under contract with the governing authority under any of the following circumstances:

(i) The person owes the state any money or is in a dispute over whether the person owes the state any money concerning the operation of a community school that has closed.

(ii) The person would otherwise be subject to division (B) of section 3319.31 of the Revised Code with respect to refusal, limitation, or revocation of a license to teach, if the person were a licensed educator.



(iii) The person has pleaded guilty to or been convicted of theft in office under section 2921.41 of the Revised Code, or has pleaded guilty to or been convicted of a substantially similar offense in another state.

(b) No person shall serve on the governing authority or engage in the financial day-to-day management of the community school under contract with the governing authority unless and until that person has submitted to a criminal records check in the manner prescribed by section 3319.39 of the Revised Code.

(c) Each sponsor of a community school shall annually verify that a finding for recovery has not been issued by the auditor of state against any individual or individuals who propose to create a community school or any member of the governing authority, the operator, or any employee of each community school.

(3) No person shall serve on the governing authorities of more than five start-up community schools at the same time.

(4)(a) For a community school established under this chapter that is not sponsored by a school district or an educational service center, no present or former member, or immediate relative of a present or former member, of the governing authority shall be an owner, employee, or consultant of the community school's sponsor or operator, unless at least one year has elapsed since the conclusion of the person's membership on the governing authority.

(b) For a community school established under this chapter that is sponsored by a school district or an educational service center, no present or former member, or immediate relative of a present or former member, of the governing authority shall:

(i) Be an officer of the district board or service center governing board that serves as the community school's sponsor, unless at least one year has elapsed since the conclusion of the person's membership on the governing authority;

(ii) Serve as an employee of, or a consultant for, the department, division, or section of the sponsoring district or service center that is directly responsible for sponsoring community schools, or have supervisory authority over such a department, division, or section, unless at least one year has elapsed since the conclusion of the person's membership on the governing authority.

(5) The governing authority of a start-up or conversion community school may provide by resolution for the compensation of its members. However, no individual who serves on the governing authority of a start-up or conversion community school shall be compensated more than one hundred twenty-five dollars per meeting of that governing authority and no such individual shall be compensated more than a total amount of five thousand dollars per year for all governing authorities upon which the individual serves. Each member of the governing authority may be paid compensation for attendance at an approved training program, provided that such compensation shall not exceed sixty dollars a day for attendance at a training program three hours or less in length and one hundred twenty-five dollars a day for attendance at a training program longer than three hours in length.

(6) No person who is the employee of a school district or educational service center shall serve on the governing authority of any community school sponsored by that school district or service center.

(7) Each member of the governing authority of a community school shall annually file a

disclosure statement setting forth the names of any immediate relatives or business associates employed by any of the following within the previous three years:

(a) The sponsor or operator of that community school;

(b) A school district or educational service center that has contracted with that community school;

(c) A vendor that is or has engaged in business with that community school.

(8) No person who is a member of a school district board of education shall serve on the governing authority of any community school.

(F)(1) A new start-up school that is established prior to August 15, 2003, in an urban school district that is not also a big-eight school district may continue to operate after that date and the contract between the school's governing authority and the school's sponsor may be renewed, as provided under this chapter, after that date, but no additional new start-up schools may be established in such a district unless the district is a challenged school district as defined in this section as it exists on and after that date.

(2) A community school that was established prior to June 29, 1999, and is located in a county contiguous to the pilot project area and in a school district that is not a challenged school district may continue to operate after that date, provided the school complies with all provisions of this chapter. The contract between the school's governing authority and the school's sponsor may be renewed, but no additional start-up community school may be established in that district unless the district is a challenged school district.

(3) Any educational service center that, on June 30, 2007, sponsors a community school that is not located in a county within the territory of the service center or in a county contiguous to such county may continue to sponsor that community school on and after June 30, 2007, and may renew its contract with the school. However, the educational service center shall not enter into a contract with any additional community school, unless the governing board of the service center has entered into an agreement with the department authorizing the service center to sponsor a community school in any challenged school district in the state.

**Sec. 3314.03.** A copy of every contract entered into under this section shall be filed with the superintendent of public instruction. The department of education shall make available on its web site a copy of every approved, executed contract filed with the superintendent under this section.

(A) Each contract entered into between a sponsor and the governing authority of a community school shall specify the following:

(1) That the school shall be established as either of the following:

(a) A nonprofit corporation established under Chapter 1702. of the Revised Code, if established prior to April 8, 2003;

(b) A public benefit corporation established under Chapter 1702. of the Revised Code, if established after April 8, 2003.

(2) The education program of the school, including the school's mission, the characteristics of the students the school is expected to attract, the ages and grades of students, and the focus of the curriculum;

(3) The academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall include the statewide achievement assessments;

(4) Performance standards, including but not limited to all applicable report card measures set forth in section 3302.03 or 3314.017 of the Revised Code, by which the success of the school will be evaluated by the sponsor;

(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code;

(6)(a) Dismissal procedures;

(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in one hundred five consecutive hours of the learning opportunities offered to the student.

(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;

(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state. Audits shall be conducted in accordance with section 117.10 of the Revised Code.

(9) An addendum to the contract outlining the facilities to be used that contains at least the following information:

(a) A detailed description of each facility used for instructional purposes;

(b) The annual costs associated with leasing each facility that are paid by or on behalf of the school;

(c) The annual mortgage principal and interest payments that are paid by the school;

(d) The name of the lender or landlord, identified as such, and the lender's or landlord's relationship to the operator, if any.

(10) Qualifications of teachers, including a requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code.

(11) That the school will comply with the following requirements:

(a) The school will provide learning opportunities to a minimum of twenty-five students for a minimum of nine hundred twenty hours per school year.

(b) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the school.

(c) The school will be nonsectarian in its programs, admission policies, employment practices, and all other operations, and will not be operated by a sectarian school or religious institution.

(d) The school will comply with sections 9.90, 9.91, 109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710, 3301.0711, 3301.0712, 3301.0715, 3301.0729, 3301.948, 3313.472, 3313.50, 3313.536, 3313.539, 3313.5310, 3313.608, 3313.609, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.6020, 3313.643, 3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.668, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.7112, 3313.721, 3313.80, 3313.814, 3313.816, 3313.817, 3313.86,

3313.89, 3313.96, 3319.073, 3319.321, 3319.39, 3319.391, 3319.41, 3319.46, 3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 4123., 4141., and 4167. of the Revised Code as if it were a school district and will comply with section 3301.0714 of the Revised Code in the manner specified in section 3314.17 of the Revised Code.

(e) The school shall comply with Chapter 102. and section 2921.42 of the Revised Code.

(f) The school will comply with sections 3313.61, 3313.611, and 3313.614 of the Revised Code, except that for students who enter ninth grade for the first time before July 1, 2010, the requirement in sections 3313.61 and 3313.611 of the Revised Code that a person must successfully complete the curriculum in any high school prior to receiving a high school diploma may be met by completing the curriculum adopted by the governing authority of the community school rather than the curriculum specified in Title XXXIII of the Revised Code or any rules of the state board of education. Beginning with students who enter ninth grade for the first time on or after July 1, 2010, the requirement in sections 3313.61 and 3313.611 of the Revised Code that a person must successfully complete the curriculum of a high school prior to receiving a high school diploma shall be met by completing the requirements prescribed in division (C) of section 3313.603 of the Revised Code, unless the person qualifies under division (D) or (F) of that section. Each school shall comply with the plan for awarding high school credit based on demonstration of subject area competency, and beginning with the 2017-2018 school year, with the updated plan that permits students enrolled in seventh and eighth grade to meet curriculum requirements based on subject area competency adopted by the state board of education under divisions (J)(1) and (2) of section 3313.603 of the Revised Code. Beginning with the 2018-2019 school year, the school shall comply with the framework for granting units of high school credit to students who demonstrate subject area competency through work-based learning experiences, internships, or cooperative education developed by the department under division (J)(3) of section 3313.603 of the Revised Code.

(g) The school governing authority will submit within four months after the end of each school year a report of its activities and progress in meeting the goals and standards of divisions (A) (3) and (4) of this section and its financial status to the sponsor and the parents of all students enrolled in the school.

(h) The school, unless it is an internet- or computer-based community school, will comply with section 3313.801 of the Revised Code as if it were a school district.

(i) If the school is the recipient of moneys from a grant awarded under the federal race to the top program, Division (A), Title XIV, Sections 14005 and 14006 of the "American Recovery and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, the school will pay teachers based upon performance in accordance with section 3317.141 and will comply with section 3319.111 of the Revised Code as if it were a school district.

(j) If the school operates a preschool program that is licensed by the department of education under sections 3301.52 to 3301.59 of the Revised Code, the school shall comply with sections 3301.50 to 3301.59 of the Revised Code and the minimum standards for preschool programs prescribed in rules adopted by the state board under section 3301.53 of the Revised Code.

(k) The school will comply with sections 3313.6021 and 3313.6023 of the Revised Code as if it were a school district unless it is either of the following:

- (i) An internet- or computer-based community school;
  - (ii) A community school in which a majority of the enrolled students are children with disabilities as described in division (A)(4)(b) of section 3314.35 of the Revised Code.
- (12) Arrangements for providing health and other benefits to employees;
- (13) The length of the contract, which shall begin at the beginning of an academic year. No contract shall exceed five years unless such contract has been renewed pursuant to division (E) of this section.
- (14) The governing authority of the school, which shall be responsible for carrying out the provisions of the contract;
- (15) A financial plan detailing an estimated school budget for each year of the period of the contract and specifying the total estimated per pupil expenditure amount for each such year.
- (16) Requirements and procedures regarding the disposition of employees of the school in the event the contract is terminated or not renewed pursuant to section 3314.07 of the Revised Code;
- (17) Whether the school is to be created by converting all or part of an existing public school or educational service center building or is to be a new start-up school, and if it is a converted public school or service center building, specification of any duties or responsibilities of an employer that the board of education or service center governing board that operated the school or building before conversion is delegating to the governing authority of the community school with respect to all or any specified group of employees provided the delegation is not prohibited by a collective bargaining agreement applicable to such employees;
- (18) Provisions establishing procedures for resolving disputes or differences of opinion between the sponsor and the governing authority of the community school;
- (19) A provision requiring the governing authority to adopt a policy regarding the admission of students who reside outside the district in which the school is located. That policy shall comply with the admissions procedures specified in sections 3314.06 and 3314.061 of the Revised Code and, at the sole discretion of the authority, shall do one of the following:
- (a) Prohibit the enrollment of students who reside outside the district in which the school is located;
  - (b) Permit the enrollment of students who reside in districts adjacent to the district in which the school is located;
  - (c) Permit the enrollment of students who reside in any other district in the state.
- (20) A provision recognizing the authority of the department of education to take over the sponsorship of the school in accordance with the provisions of division (C) of section 3314.015 of the Revised Code;
- (21) A provision recognizing the sponsor's authority to assume the operation of a school under the conditions specified in division (B) of section 3314.073 of the Revised Code;
- (22) A provision recognizing both of the following:
- (a) The authority of public health and safety officials to inspect the facilities of the school and to order the facilities closed if those officials find that the facilities are not in compliance with health and safety laws and regulations;
  - (b) The authority of the department of education as the community school oversight body to suspend the operation of the school under section 3314.072 of the Revised Code if the department

has evidence of conditions or violations of law at the school that pose an imminent danger to the health and safety of the school's students and employees and the sponsor refuses to take such action.

(23) A description of the learning opportunities that will be offered to students including both classroom-based and non-classroom-based learning opportunities that is in compliance with criteria for student participation established by the department under division (H)(2) of section 3314.08 of the Revised Code;

(24) The school will comply with sections 3302.04 and 3302.041 of the Revised Code, except that any action required to be taken by a school district pursuant to those sections shall be taken by the sponsor of the school. However, the sponsor shall not be required to take any action described in division (F) of section 3302.04 of the Revised Code.

(25) Beginning in the 2006-2007 school year, the school will open for operation not later than the thirtieth day of September each school year, unless the mission of the school as specified under division (A)(2) of this section is solely to serve dropouts. In its initial year of operation, if the school fails to open by the thirtieth day of September, or within one year after the adoption of the contract pursuant to division (D) of section 3314.02 of the Revised Code if the mission of the school is solely to serve dropouts, the contract shall be void.

(26) Whether the school's governing authority is planning to seek designation for the school as a STEM school equivalent under section 3326.032 of the Revised Code;

(27) That the school's attendance and participation policies will be available for public inspection;

(28) That the school's attendance and participation records shall be made available to the department of education, auditor of state, and school's sponsor to the extent permitted under and in accordance with the "Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended, and any regulations promulgated under that act, and section 3319.321 of the Revised Code;

(29) If a school operates using the blended learning model, as defined in section 3301.079 of the Revised Code, all of the following information:

(a) An indication of what blended learning model or models will be used;

(b) A description of how student instructional needs will be determined and documented;

(c) The method to be used for determining competency, granting credit, and promoting students to a higher grade level;

(d) The school's attendance requirements, including how the school will document participation in learning opportunities;

(e) A statement describing how student progress will be monitored;

(f) A statement describing how private student data will be protected;

(g) A description of the professional development activities that will be offered to teachers.

(30) A provision requiring that all moneys the school's operator loans to the school, including facilities loans or cash flow assistance, must be accounted for, documented, and bear interest at a fair market rate;

(31) A provision requiring that, if the governing authority contracts with an attorney, accountant, or entity specializing in audits, the attorney, accountant, or entity shall be independent from the operator with which the school has contracted.

(B) The community school shall also submit to the sponsor a comprehensive plan for the school. The plan shall specify the following:

- (1) The process by which the governing authority of the school will be selected in the future;
- (2) The management and administration of the school;
- (3) If the community school is a currently existing public school or educational service center building, alternative arrangements for current public school students who choose not to attend the converted school and for teachers who choose not to teach in the school or building after conversion;
- (4) The instructional program and educational philosophy of the school;
- (5) Internal financial controls.

When submitting the plan under this division, the school shall also submit copies of all policies and procedures regarding internal financial controls adopted by the governing authority of the school.

(C) A contract entered into under section 3314.02 of the Revised Code between a sponsor and the governing authority of a community school may provide for the community school governing authority to make payments to the sponsor, which is hereby authorized to receive such payments as set forth in the contract between the governing authority and the sponsor. The total amount of such payments for monitoring, oversight, and technical assistance of the school shall not exceed three per cent of the total amount of payments for operating expenses that the school receives from the state.

(D) The contract shall specify the duties of the sponsor which shall be in accordance with the written agreement entered into with the department of education under division (B) of section 3314.015 of the Revised Code and shall include the following:

- (1) Monitor the community school's compliance with all laws applicable to the school and with the terms of the contract;
- (2) Monitor and evaluate the academic and fiscal performance and the organization and operation of the community school on at least an annual basis;
- (3) Report on an annual basis the results of the evaluation conducted under division (D)(2) of this section to the department of education and to the parents of students enrolled in the community school;
- (4) Provide technical assistance to the community school in complying with laws applicable to the school and terms of the contract;
- (5) Take steps to intervene in the school's operation to correct problems in the school's overall performance, declare the school to be on probationary status pursuant to section 3314.073 of the Revised Code, suspend the operation of the school pursuant to section 3314.072 of the Revised Code, or terminate the contract of the school pursuant to section 3314.07 of the Revised Code as determined necessary by the sponsor;
- (6) Have in place a plan of action to be undertaken in the event the community school experiences financial difficulties or closes prior to the end of a school year.

(E) Upon the expiration of a contract entered into under this section, the sponsor of a community school may, with the approval of the governing authority of the school, renew that contract for a period of time determined by the sponsor, but not ending earlier than the end of any school year, if the sponsor finds that the school's compliance with applicable laws and terms of the contract and the school's progress in meeting the academic goals prescribed in the contract have been

satisfactory. Any contract that is renewed under this division remains subject to the provisions of sections 3314.07, 3314.072, and 3314.073 of the Revised Code.

(F) If a community school fails to open for operation within one year after the contract entered into under this section is adopted pursuant to division (D) of section 3314.02 of the Revised Code or permanently closes prior to the expiration of the contract, the contract shall be void and the school shall not enter into a contract with any other sponsor. A school shall not be considered permanently closed because the operations of the school have been suspended pursuant to section 3314.072 of the Revised Code.

**Sec. 3314.05.** (A) The contract between the community school and the sponsor shall specify the facilities to be used for the community school and the method of acquisition. Except as provided in divisions (B)(3) and (4) of this section, no community school shall be established in more than one school district under the same contract.

(B) Division (B) of this section shall not apply to internet- or computer-based community schools.

(1) A community school may be located in multiple facilities under the same contract only if the limitations on availability of space prohibit serving all the grade levels specified in the contract in a single facility or division (B)(2), (3), or (4) of this section applies to the school. The school shall not offer the same grade level classrooms in more than one facility.

(2) A community school may be located in multiple facilities under the same contract and, notwithstanding division (B)(1) of this section, may assign students in the same grade level to multiple facilities, as long as all of the following apply:

(a) The governing authority has entered into and maintains a contract with an operator of the type described in division (A)(8)(b) of section 3314.02 of the Revised Code.

(b) The contract with that operator qualified the school to be established pursuant to division (A) of former section 3314.016 of the Revised Code.

(c) The school's rating under section 3302.03 of the Revised Code does not fall below a combination of any of the following for two or more consecutive years:

(i) A rating of "in need of continuous improvement" under section 3302.03 of the Revised Code, as that section existed prior to March 22, 2013;

(ii) For the 2012-2013, 2013-2014, 2014-2015, and 2015-2016 school years, a rating of "C" for both the performance index score under division (A)(1)(b) or (B)(1)(b) and the value-added dimension under division (A)(1)(e) or (B)(1)(e) of section 3302.03 of the Revised Code; or if the building serves only grades ten through twelve, the building received a grade of "C" for the performance index score under division (A)(1)(b) or (B)(1)(b) of section 3302.03 of the Revised Code;

(iii) For the 2016-2017 school year and for any school year thereafter, an overall grade of "C" under division (C)(3) of section 3302.03 of the Revised Code or an overall performance designation of "meets standards" under division (E)(3)(e) of section 3314.017 of the Revised Code.

(3) A new start-up community school may be established in two school districts under the same contract if all of the following apply:

(a) At least one of the school districts in which the school is established is a challenged school district;



(b) The school operates not more than one facility in each school district and, in accordance with division (B)(1) of this section, the school does not offer the same grade level classrooms in both facilities; and

(c) Transportation between the two facilities does not require more than thirty minutes of direct travel time as measured by school bus.

In the case of a community school to which division (B)(3) of this section applies, if only one of the school districts in which the school is established is a challenged school district, that district shall be considered the school's primary location and the district in which the school is located for the purposes of division (A)(19) of section 3314.03 and divisions (C) and (H) of section 3314.06 of the Revised Code and for all other purposes of this chapter. If both of the school districts in which the school is established are challenged school districts, the school's governing authority shall designate one of those districts to be considered the school's primary location and the district in which the school is located for the purposes of those divisions and all other purposes of this chapter and shall notify the department of education of that designation.

(4) A community school may be located in multiple facilities under the same contract and, notwithstanding division (B)(1) of this section, may assign students in the same grade level to multiple facilities, as long as both of the following apply:

(a) The facilities are all located in the same county.

(b) Either of the following conditions are satisfied:

(i) The community school is sponsored by a board of education of a city, local, or exempted village school district having territory in the same county where the facilities of the community school are located;

(ii) The community school is managed by an operator.

In the case of a community school to which division (B)(4) of this section applies and that maintains facilities in more than one school district, the school's governing authority shall designate one of those districts to be considered the school's primary location and the district in which the school is located for the purposes of division (A)(19) of section 3314.03 and divisions (C) and (H) of section 3314.06 of the Revised Code and for all other purposes of this chapter and shall notify the department of that designation.

(5) Any facility used for a community school shall meet all health and safety standards established by law for school buildings.

(C) In the case where a community school is proposed to be located in a facility owned by a school district or educational service center, the facility may not be used for such community school unless the district or service center board owning the facility enters into an agreement for the community school to utilize the facility. Use of the facility may be under any terms and conditions agreed to by the district or service center board and the school.

(D) Two or more separate community schools may be located in the same facility.

(E) In the case of a community school that is located in multiple facilities, beginning July 1, 2012, the department shall assign a unique identification number to the school and to each facility maintained by the school. Each number shall be used for identification purposes only. Nothing in this division shall be construed to require the department to calculate the amount of funds paid under this chapter, or to compute any data required for the report cards issued under section 3314.012 of the

Revised Code, for each facility separately. The department shall make all such calculations or computations for the school as a whole.

**Sec. 3314.06.** The governing authority of each community school established under this chapter shall adopt admission procedures that specify the following:

(A) That, except as otherwise provided in this section, admission to the school shall be open to any individual age five to twenty-two entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code in a school district in the state.

Additionally, except as otherwise provided in this section, admission to the school may be open on a tuition basis to any individual age five to twenty-two who is not a resident of this state. The school shall not receive state funds under section 3314.08 of the Revised Code for any student who is not a resident of this state.

An individual younger than five years of age may be admitted to the school in accordance with division (A)(2) of section 3321.01 of the Revised Code. The school shall receive funds for an individual admitted under that division in the manner provided under section 3314.08 of the Revised Code.

If the school operates a program that uses the Montessori method endorsed by the American Montessori society, the Montessori accreditation council for teacher education, or the association Montessori internationale as its primary method of instruction, admission to the school may be open to individuals younger than five years of age, but the school shall not receive funds under this chapter for those individuals. Notwithstanding anything to the contrary in this chapter, individuals younger than five years of age who are enrolled in a Montessori program shall be offered at least four hundred fifty-five hours of learning opportunities per school year.

If the school operates a preschool program that is licensed by the department of education under sections 3301.52 to 3301.59 of the Revised Code, admission to the school may be open to individuals who are younger than five years of age, but the school shall not receive funds under this chapter for those individuals.

(B)(1) That admission to the school may be limited to students who have attained a specific grade level or are within a specific age group; to students that meet a definition of "at-risk," as defined in the contract; to residents of a specific geographic area within the district, as defined in the contract; or to separate groups of autistic students and nondisabled students, as authorized in section 3314.061 of the Revised Code and as defined in the contract.

(2) For purposes of division (B)(1) of this section, "at-risk" students may include those students identified as gifted students under section 3324.03 of the Revised Code.

(C) Whether enrollment is limited to students who reside in the district in which the school is located or is open to residents of other districts, as provided in the policy adopted pursuant to the contract.

(D)(1) That there will be no discrimination in the admission of students to the school on the basis of race, creed, color, disability, or sex except that:

(a) The governing authority may do either of the following for the purpose described in division (G) of this section:

(i) Establish a single-gender school for either sex;

(ii) Establish single-gender schools for each sex under the same contract, provided

substantially equal facilities and learning opportunities are offered for both boys and girls. Such facilities and opportunities may be offered for each sex at separate locations.

(b) The governing authority may establish a school that simultaneously serves a group of students identified as autistic and a group of students who are not disabled, as authorized in section 3314.061 of the Revised Code. However, unless the total capacity established for the school has been filled, no student with any disability shall be denied admission on the basis of that disability.

(2) That upon admission of any student with a disability, the community school will comply with all federal and state laws regarding the education of students with disabilities.

(E) That the school may not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability, except that a school may limit its enrollment to students as described in division (B) of this section.

(F) That the community school will admit the number of students that does not exceed the capacity of the school's programs, classes, grade levels, or facilities.

(G) That the purpose of single-gender schools that are established shall be to take advantage of the academic benefits some students realize from single-gender instruction and facilities and to offer students and parents residing in the district the option of a single-gender education.

(H) That, except as otherwise provided under division (B) of this section or section 3314.061 of the Revised Code, if the number of applicants exceeds the capacity restrictions of division (F) of this section, students shall be admitted by lot from all those submitting applications, except preference shall be given to students attending the school the previous year and to students who reside in the district in which the school is located. Preference may be given to siblings of students attending the school the previous year. Preference also may be given to students who are the children of full-time staff members employed by the school, provided the total number of students receiving this preference is less than five per cent of the school's total enrollment.

Notwithstanding divisions (A) to (H) of this section, in the event the racial composition of the enrollment of the community school is violative of a federal desegregation order, the community school shall take any and all corrective measures to comply with the desegregation order.

**Sec. 3314.08.** (A) As used in this section:

(1)(a) "Category one career-technical education student" means a student who is receiving the career-technical education services described in division (A) of section 3317.014 of the Revised Code.

(b) "Category two career-technical student" means a student who is receiving the career-technical education services described in division (B) of section 3317.014 of the Revised Code.

(c) "Category three career-technical student" means a student who is receiving the career-technical education services described in division (C) of section 3317.014 of the Revised Code.

(d) "Category four career-technical student" means a student who is receiving the career-technical education services described in division (D) of section 3317.014 of the Revised Code.

(e) "Category five career-technical education student" means a student who is receiving the career-technical education services described in division (E) of section 3317.014 of the Revised Code.

(2)(a) "Category one limited English proficient student" means a limited English proficient student described in division (A) of section 3317.016 of the Revised Code.

(b) "Category two limited English proficient student" means a limited English proficient student described in division (B) of section 3317.016 of the Revised Code.

(c) "Category three limited English proficient student" means a limited English proficient student described in division (C) of section 3317.016 of the Revised Code.

(3)(a) "Category one special education student" means a student who is receiving special education services for a disability specified in division (A) of section 3317.013 of the Revised Code.

(b) "Category two special education student" means a student who is receiving special education services for a disability specified in division (B) of section 3317.013 of the Revised Code.

(c) "Category three special education student" means a student who is receiving special education services for a disability specified in division (C) of section 3317.013 of the Revised Code.

(d) "Category four special education student" means a student who is receiving special education services for a disability specified in division (D) of section 3317.013 of the Revised Code.

(e) "Category five special education student" means a student who is receiving special education services for a disability specified in division (E) of section 3317.013 of the Revised Code.

(f) "Category six special education student" means a student who is receiving special education services for a disability specified in division (F) of section 3317.013 of the Revised Code.

(4) "Formula amount" has the same meaning as in section 3317.02 of the Revised Code.

(5) "IEP" has the same meaning as in section 3323.01 of the Revised Code.

(6) "Resident district" means the school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(7) "State education aid" has the same meaning as in section 5751.20 of the Revised Code.

(B) The state board of education shall adopt rules requiring both of the following:

(1) The board of education of each city, exempted village, and local school district to annually report the number of students entitled to attend school in the district who are enrolled in each grade kindergarten through twelve in a community school established under this chapter, and for each child, the community school in which the child is enrolled.

(2) The governing authority of each community school established under this chapter to annually report all of the following:

(a) The number of students enrolled in grades one through twelve and the full-time equivalent number of students enrolled in kindergarten in the school who are not receiving special education and related services pursuant to an IEP;

(b) The number of enrolled students in grades one through twelve and the full-time equivalent number of enrolled students in kindergarten, who are receiving special education and related services pursuant to an IEP;

(c) The number of students reported under division (B)(2)(b) of this section receiving special education and related services pursuant to an IEP for a disability described in each of divisions (A) to (F) of section 3317.013 of the Revised Code;

(d) The full-time equivalent number of students reported under divisions (B)(2)(a) and (b) of this section who are enrolled in career-technical education programs or classes described in each of divisions (A) to (E) of section 3317.014 of the Revised Code that are provided by the community school;

(e) The number of students reported under divisions (B)(2)(a) and (b) of this section who are

not reported under division (B)(2)(d) of this section but who are enrolled in career-technical education programs or classes described in each of divisions (A) to (E) of section 3317.014 of the Revised Code at a joint vocational school district or another district in the career-technical planning district to which the school is assigned;

(f) The number of students reported under divisions (B)(2)(a) and (b) of this section who are category one to three limited English proficient students described in each of divisions (A) to (C) of section 3317.016 of the Revised Code;

(g) The number of students reported under divisions (B)(2)(a) and (b) of this section who are economically disadvantaged, as defined by the department. A student shall not be categorically excluded from the number reported under division (B)(2)(g) of this section based on anything other than family income.

(h) For each student, the city, exempted village, or local school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(i) The number of students enrolled in a preschool program operated by the school that is licensed by the department of education under sections 3301.52 to 3301.59 of the Revised Code who are not receiving special education and related services pursuant to an IEP.

A school district board and a community school governing authority shall include in their respective reports under division (B) of this section any child admitted in accordance with division (A)(2) of section 3321.01 of the Revised Code.

A governing authority of a community school shall not include in its report under divisions (B)(2)(a) to (h) of this section any student for whom tuition is charged under division (F) of this section.

(C)(1) Except as provided in division (C)(2) of this section, and subject to divisions (C)(3), (4), (5), (6), and (7) of this section, on a full-time equivalency basis, for each student enrolled in a community school established under this chapter, the department of education annually shall deduct from the state education aid of a student's resident district and, if necessary, from the payment made to the district under sections 321.24 and 323.156 of the Revised Code and pay to the community school the sum of the following:

(a) An opportunity grant in an amount equal to the formula amount;

(b) The per pupil amount of targeted assistance funds calculated under division (A) of section 3317.0217 of the Revised Code for the student's resident district, as determined by the department, X 0.25;

(c) Additional state aid for special education and related services provided under Chapter 3323. of the Revised Code as follows:

(i) If the student is a category one special education student, the amount specified in division (A) of section 3317.013 of the Revised Code;

(ii) If the student is a category two special education student, the amount specified in division (B) of section 3317.013 of the Revised Code;

(iii) If the student is a category three special education student, the amount specified in division (C) of section 3317.013 of the Revised Code;

(iv) If the student is a category four special education student, the amount specified in division (D) of section 3317.013 of the Revised Code;

(v) If the student is a category five special education student, the amount specified in division (E) of section 3317.013 of the Revised Code;

(vi) If the student is a category six special education student, the amount specified in division (F) of section 3317.013 of the Revised Code.

(d) If the student is in kindergarten through third grade, an additional amount of \$320;

(e) If the student is economically disadvantaged, an additional amount equal to the following: \$272 X the resident district's economically disadvantaged index

(f) Limited English proficiency funds as follows:

(i) If the student is a category one limited English proficient student, the amount specified in division (A) of section 3317.016 of the Revised Code;

(ii) If the student is a category two limited English proficient student, the amount specified in division (B) of section 3317.016 of the Revised Code;

(iii) If the student is a category three limited English proficient student, the amount specified in division (C) of section 3317.016 of the Revised Code.

(g) If the student is reported under division (B)(2)(d) of this section, career-technical education funds as follows:

(i) If the student is a category one career-technical education student, the amount specified in division (A) of section 3317.014 of the Revised Code;

(ii) If the student is a category two career-technical education student, the amount specified in division (B) of section 3317.014 of the Revised Code;

(iii) If the student is a category three career-technical education student, the amount specified in division (C) of section 3317.014 of the Revised Code;

(iv) If the student is a category four career-technical education student, the amount specified in division (D) of section 3317.014 of the Revised Code;

(v) If the student is a category five career-technical education student, the amount specified in division (E) of section 3317.014 of the Revised Code.

Deduction and payment of funds under division (C)(1)(g) of this section is subject to approval by the lead district of a career-technical planning district or the department of education under section 3317.161 of the Revised Code.

(2) When deducting from the state education aid of a student's resident district for students enrolled in an internet- or computer-based community school and making payments to such school under this section, the department shall make the deductions and payments described in only divisions (C)(1)(a), (c), and (g) of this section.

No deductions or payments shall be made for a student enrolled in such school under division (C)(1)(b), (d), (e), or (f) of this section.

(3)(a) If a community school's costs for a fiscal year for a student receiving special education and related services pursuant to an IEP for a disability described in divisions (B) to (F) of section 3317.013 of the Revised Code exceed the threshold catastrophic cost for serving the student as specified in division (B) of section 3317.0214 of the Revised Code, the school may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the community school an amount equal to the school's costs

for the student in excess of the threshold catastrophic costs.

(b) The community school shall report under division (C)(3)(a) of this section, and the department shall pay for, only the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(4) In any fiscal year, a community school receiving funds under division (C)(1)(g) of this section shall spend those funds only for the purposes that the department designates as approved for career-technical education expenses. Career-technical education expenses approved by the department shall include only expenses connected to the delivery of career-technical programming to career-technical students. The department shall require the school to report data annually so that the department may monitor the school's compliance with the requirements regarding the manner in which funding received under division (C)(1)(g) of this section may be spent.

(5) Notwithstanding anything to the contrary in section 3313.90 of the Revised Code, except as provided in division (C)(9) of this section, all funds received under division (C)(1)(g) of this section shall be spent in the following manner:

(a) At least seventy-five per cent of the funds shall be spent on curriculum development, purchase, and implementation; instructional resources and supplies; industry-based program certification; student assessment, credentialing, and placement; curriculum specific equipment purchases and leases; career-technical student organization fees and expenses; home and agency linkages; work-based learning experiences; professional development; and other costs directly associated with career-technical education programs including development of new programs.

(b) Not more than twenty-five per cent of the funds shall be used for personnel expenditures.

(6) A community school shall spend the funds it receives under division (C)(1)(e) of this section in accordance with section 3317.25 of the Revised Code.

(7) If the sum of the payments computed under divisions (C)(1) and (8)(a) of this section for the students entitled to attend school in a particular school district under sections 3313.64 and 3313.65 of the Revised Code exceeds the sum of that district's state education aid and its payment under sections 321.24 and 323.156 of the Revised Code, the department shall calculate and apply a proration factor to the payments to all community schools under that division for the students entitled to attend school in that district.

(8)(a) Subject to division (C)(7) of this section, the department annually shall pay to each community school, including each internet- or computer-based community school, an amount equal to the following:

(The number of students reported by the community school under division (B)(2)(e) of this section X the formula amount X .20)

(b) For each payment made to a community school under division (C)(8)(a) of this section, the department shall deduct from the state education aid of each city, local, and exempted village school district and, if necessary, from the payment made to the district under sections 321.24 and 323.156 of the Revised Code an amount equal to the following:

(The number of the district's students reported by the community school under division (B)(2)(e) of this section X the formula amount X .20)

(9) The department may waive the requirement in division (C)(5) of this section for any community school that exclusively provides one or more career-technical workforce development programs in arts and communications that are not equipment-intensive, as determined by the department.

(D) A board of education sponsoring a community school may utilize local funds to make enhancement grants to the school or may agree, either as part of the contract or separately, to provide any specific services to the community school at no cost to the school.

(E) A community school may not levy taxes or issue bonds secured by tax revenues.

(F) No community school shall charge tuition for the enrollment of any student who is a resident of this state. A community school may charge tuition for the enrollment of any student who is not a resident of this state.

(G)(1)(a) A community school may borrow money to pay any necessary and actual expenses of the school in anticipation of the receipt of any portion of the payments to be received by the school pursuant to division (C) of this section. The school may issue notes to evidence such borrowing. The proceeds of the notes shall be used only for the purposes for which the anticipated receipts may be lawfully expended by the school.

(b) A school may also borrow money for a term not to exceed fifteen years for the purpose of acquiring facilities.

(2) Except for any amount guaranteed under section 3318.50 of the Revised Code, the state is not liable for debt incurred by the governing authority of a community school.

(H) The department of education shall adjust the amounts subtracted and paid under division (C) of this section to reflect any enrollment of students in community schools for less than the equivalent of a full school year. The state board of education within ninety days after April 8, 2003, shall adopt in accordance with Chapter 119. of the Revised Code rules governing the payments to community schools under this section including initial payments in a school year and adjustments and reductions made in subsequent periodic payments to community schools and corresponding deductions from school district accounts as provided under division (C) of this section. For purposes of this section:

(1) A student shall be considered enrolled in the community school for any portion of the school year the student is participating at a college under Chapter 3365. of the Revised Code.

(2) A student shall be considered to be enrolled in a community school for the period of time beginning on the later of the date on which the school both has received documentation of the student's enrollment from a parent and the student has commenced participation in learning opportunities as defined in the contract with the sponsor, or thirty days prior to the date on which the student is entered into the education management information system established under section 3301.0714 of the Revised Code. For purposes of applying this division and divisions (H)(3) and (4) of this section to a community school student, "learning opportunities" shall be defined in the contract, which shall describe both classroom-based and non-classroom-based learning opportunities and shall be in compliance with criteria and documentation requirements for student participation which shall be established by the department. Any student's instruction time in non-classroom-based learning opportunities shall be certified by an employee of the community school. A student's enrollment shall be considered to cease on the date on which any of the following occur:



(a) The community school receives documentation from a parent terminating enrollment of the student.

(b) The community school is provided documentation of a student's enrollment in another public or private school.

(c) The community school ceases to offer learning opportunities to the student pursuant to the terms of the contract with the sponsor or the operation of any provision of this chapter.

Except as otherwise specified in this paragraph, beginning in the 2011-2012 school year, any student who completed the prior school year in an internet- or computer-based community school shall be considered to be enrolled in the same school in the subsequent school year until the student's enrollment has ceased as specified in division (H)(2) of this section. The department shall continue subtracting and paying amounts for the student under division (C) of this section without interruption at the start of the subsequent school year. However, if the student without a legitimate excuse fails to participate in the first one hundred five consecutive hours of learning opportunities offered to the student in that subsequent school year, the student shall be considered not to have re-enrolled in the school for that school year and the department shall recalculate the payments to the school for that school year to account for the fact that the student is not enrolled.

(3) The department shall determine each community school student's percentage of full-time equivalency based on the percentage of learning opportunities offered by the community school to that student, reported either as number of hours or number of days, is of the total learning opportunities offered by the community school to a student who attends for the school's entire school year. However, no internet- or computer-based community school shall be credited for any time a student spends participating in learning opportunities beyond ten hours within any period of twenty-four consecutive hours. Whether it reports hours or days of learning opportunities, each community school shall offer not less than nine hundred twenty hours of learning opportunities during the school year.

(4) With respect to the calculation of full-time equivalency under division (H)(3) of this section, the department shall waive the number of hours or days of learning opportunities not offered to a student because the community school was closed during the school year due to disease epidemic, hazardous weather conditions, law enforcement emergencies, inoperability of school buses or other equipment necessary to the school's operation, damage to a school building, or other temporary circumstances due to utility failure rendering the school building unfit for school use, so long as the school was actually open for instruction with students in attendance during that school year for not less than the minimum number of hours required by this chapter. The department shall treat the school as if it were open for instruction with students in attendance during the hours or days waived under this division.

(I) The department of education shall reduce the amounts paid under this section to reflect payments made to colleges under section 3365.07 of the Revised Code.

(J)(1) No student shall be considered enrolled in any internet- or computer-based community school or, if applicable to the student, in any community school that is required to provide the student with a computer pursuant to division (C) of section 3314.22 of the Revised Code, unless both of the following conditions are satisfied:

(a) The student possesses or has been provided with all required hardware and software

materials and all such materials are operational so that the student is capable of fully participating in the learning opportunities specified in the contract between the school and the school's sponsor as required by division (A)(23) of section 3314.03 of the Revised Code;

(b) The school is in compliance with division (A) of section 3314.22 of the Revised Code, relative to such student.

(2) In accordance with policies adopted jointly by the superintendent of public instruction and the auditor of state, the department shall reduce the amounts otherwise payable under division (C) of this section to any community school that includes in its program the provision of computer hardware and software materials to any student, if such hardware and software materials have not been delivered, installed, and activated for each such student in a timely manner or other educational materials or services have not been provided according to the contract between the individual community school and its sponsor.

The superintendent of public instruction and the auditor of state shall jointly establish a method for auditing any community school to which this division pertains to ensure compliance with this section.

The superintendent, auditor of state, and the governor shall jointly make recommendations to the general assembly for legislative changes that may be required to assure fiscal and academic accountability for such schools.

(K)(1) If the department determines that a review of a community school's enrollment is necessary, such review shall be completed and written notice of the findings shall be provided to the governing authority of the community school and its sponsor within ninety days of the end of the community school's fiscal year, unless extended for a period not to exceed thirty additional days for one of the following reasons:

(a) The department and the community school mutually agree to the extension.

(b) Delays in data submission caused by either a community school or its sponsor.

(2) If the review results in a finding that additional funding is owed to the school, such payment shall be made within thirty days of the written notice. If the review results in a finding that the community school owes moneys to the state, the following procedure shall apply:

(a) Within ten business days of the receipt of the notice of findings, the community school may appeal the department's determination to the state board of education or its designee.

(b) The board or its designee shall conduct an informal hearing on the matter within thirty days of receipt of such an appeal and shall issue a decision within fifteen days of the conclusion of the hearing.

(c) If the board has enlisted a designee to conduct the hearing, the designee shall certify its decision to the board. The board may accept the decision of the designee or may reject the decision of the designee and issue its own decision on the matter.

(d) Any decision made by the board under this division is final.

(3) If it is decided that the community school owes moneys to the state, the department shall deduct such amount from the school's future payments in accordance with guidelines issued by the superintendent of public instruction.

(L) The department shall not subtract from a school district's state aid account and shall not pay to a community school under division (C) of this section any amount for any of the following:

(1) Any student who has graduated from the twelfth grade of a public or nonpublic high school;

(2) Any student who is not a resident of the state;

(3) Any student who was enrolled in the community school during the previous school year when assessments were administered under section 3301.0711 of the Revised Code but did not take one or more of the assessments required by that section and was not excused pursuant to division (C) (1) or (3) of that section, unless the superintendent of public instruction grants the student a waiver from the requirement to take the assessment and a parent is not paying tuition for the student pursuant to section 3314.26 of the Revised Code. The superintendent may grant a waiver only for good cause in accordance with rules adopted by the state board of education.

(4) Any student who has attained the age of twenty-two years, except for veterans of the armed services whose attendance was interrupted before completing the recognized twelve-year course of the public schools by reason of induction or enlistment in the armed forces and who apply for enrollment in a community school not later than four years after termination of war or their honorable discharge. If, however, any such veteran elects to enroll in special courses organized for veterans for whom tuition is paid under federal law, or otherwise, the department shall not subtract from a school district's state aid account and shall not pay to a community school under division (C) of this section any amount for that veteran.

**Sec. 3314.085.**

**Sec. 3314.091.** (A) A school district is not required to provide transportation for any native student enrolled in a community school if the district board of education has entered into an agreement with the community school's governing authority that designates the community school as responsible for providing or arranging for the transportation of the district's native students to and from the community school. For any such agreement to be effective, it must be certified by the superintendent of public instruction as having met all of the following requirements:

(1) It is submitted to the department of education by a deadline which shall be established by the department.

(2) In accordance with divisions (C)(1) and (2) of this section, it specifies qualifications, such as residing a minimum distance from the school, for students to have their transportation provided or arranged.

(3) The transportation provided by the community school is subject to all provisions of the Revised Code and all rules adopted under the Revised Code pertaining to pupil transportation.

(4) The sponsor of the community school also has signed the agreement.

(B)(1) For the school year that begins on July 1, 2007, a school district is not required to provide transportation for any native student enrolled in a community school, if the community school during the previous school year transported the students enrolled in the school or arranged for the students' transportation, even if that arrangement consisted of having parents transport their children to and from the school, but did not enter into an agreement to transport or arrange for transportation for those students under division (A) of this section, and if the governing authority of the community school by July 15, 2007, submits written notification to the district board of education stating that the governing authority is accepting responsibility for providing or arranging for the transportation of the district's native students to and from the community school.

(2) Except as provided in division (B)(4) of this section, for any school year subsequent to the school year that begins on July 1, 2007, a school district is not required to provide transportation for any native student enrolled in a community school if the governing authority of the community school, by the thirty-first day of January of the previous school year, submits written notification to the district board of education stating that the governing authority is accepting responsibility for providing or arranging for the transportation of the district's native students to and from the community school. If the governing authority of the community school has previously accepted responsibility for providing or arranging for the transportation of a district's native students to and from the community school, under division (B)(1) or (2) of this section, and has since relinquished that responsibility under division (B)(3) of this section, the governing authority shall not accept that responsibility again unless the district board consents to the governing authority's acceptance of that responsibility.

(3) A governing authority's acceptance of responsibility under division (B)(1) or (2) of this section shall cover an entire school year, and shall remain in effect for subsequent school years unless the governing authority submits written notification to the district board that the governing authority is relinquishing the responsibility. However, a governing authority shall not relinquish responsibility for transportation before the end of a school year, and shall submit the notice relinquishing responsibility by the thirty-first day of January, in order to allow the school district reasonable time to prepare transportation for its native students enrolled in the school.

(4)(a) For any school year that begins on or after July 1, 2014, a school district is not required to provide transportation for any native student enrolled in a community school scheduled to open for operation in the current school year, if the governing authority of the community school, by the fifteenth day of April of the previous school year, submits written notification to the district board of education stating that the governing authority is accepting responsibility for providing or arranging for the transportation of the district's native students to and from the community school.

(b) The governing authority of a community school that accepts responsibility for transporting its students under division (B)(4)(a) of this section shall comply with divisions (B)(2) and (3) of this section to renew or relinquish that authority for subsequent school years.

(C)(1) A community school governing authority that enters into an agreement under division (A) of this section, or that accepts responsibility under division (B) of this section, shall provide or arrange transportation free of any charge for each of its enrolled students who is required to be transported under section 3327.01 of the Revised Code. The governing authority shall report to the department of education the number of students transported or for whom transportation is arranged under this section in accordance with rules adopted by the state board of education.

(2) The governing authority may provide or arrange transportation for any other enrolled student who is not eligible for transportation in accordance with division (C)(1) of this section and may charge a fee for such service up to the actual cost of the service.

(3) Notwithstanding anything to the contrary in division (C)(1) or (2) of this section, a community school governing authority shall provide or arrange transportation free of any charge for any disabled student enrolled in the school for whom the student's individualized education program developed under Chapter 3323. of the Revised Code specifies transportation.

(D)(1) If a school district board and a community school governing authority elect to enter

into an agreement under division (A) of this section, the department of education shall make payments to the community school according to the terms of the agreement for each student actually transported under division (C)(1) of this section.

If a community school governing authority accepts transportation responsibility under division (B) of this section, the department shall make payments to the community school for each student actually transported or for whom transportation is arranged by the community school under division (C)(1) of this section, calculated as follows:

(a) For any fiscal year which the general assembly has specified that transportation payments to school districts be based on an across-the-board percentage of the district's payment for the previous school year, the per pupil payment to the community school shall be the following quotient:

(i) The total amount calculated for the school district in which the child is entitled to attend school for student transportation other than transportation of children with disabilities; divided by

(ii) The number of students included in the district's transportation ADM for the current fiscal year, as calculated under section 3317.03 of the Revised Code, plus the number of students enrolled in the community school not counted in the district's transportation ADM who are transported under division (B)(1) or (2) of this section.

(b) For any fiscal year which the general assembly has specified that the transportation payments to school districts be calculated in accordance with section 3317.0212 of the Revised Code and any rules of the state board of education implementing that section, the payment to the community school shall be the amount so calculated on a per rider basis that otherwise would be paid to the school district in which the student is entitled to attend school by the method of transportation the district would have used. The community school, however, is not required to use the same method to transport that student.

(c) Divisions (D)(1)(a) and (b) of this section do not apply to fiscal years 2012 and 2013. Rather, for each of those fiscal years, the per pupil payment to a community school for transporting a student shall be the total amount paid under former section 3306.12 of the Revised Code for fiscal year 2011 to the school district in which the child is entitled to attend school divided by that district's "qualifying ridership," as defined in that section for fiscal year 2011.

As used in this division "entitled to attend school" means entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(2) The department shall deduct the payment under division (D)(1) of this section from the state education aid, as defined in section 3314.08 of the Revised Code, and, if necessary, the payment under sections 321.14 and 323.156 of the Revised Code, that is otherwise paid to the school district in which the student enrolled in the community school is entitled to attend school. The department shall include the number of the district's native students for whom payment is made to a community school under division (D)(1) of this section in the calculation of the district's transportation payment under section 3317.0212 of the Revised Code and the operating appropriations act.

(3) A community school shall be paid under division (D)(1) of this section only for students who are eligible as specified in section 3327.01 of the Revised Code and division (C)(1) of this section, and whose transportation to and from school is actually provided, who actually utilized transportation arranged, or for whom a payment in lieu of transportation is made by the community school's governing authority. To qualify for the payments, the community school shall report to the

department, in the form and manner required by the department, data on the number of students transported or whose transportation is arranged, the number of miles traveled, cost to transport, and any other information requested by the department.

(4) A community school shall use payments received under this section solely to pay the costs of providing or arranging for the transportation of students who are eligible as specified in section 3327.01 of the Revised Code and division (C)(1) of this section, which may include payments to a parent, guardian, or other person in charge of a child in lieu of transportation.

(E) Except when arranged through payment to a parent, guardian, or person in charge of a child, transportation provided or arranged for by a community school pursuant to an agreement under this section is subject to all provisions of the Revised Code, and all rules adopted under the Revised Code, pertaining to the construction, design, equipment, and operation of school buses and other vehicles transporting students to and from school. The drivers and mechanics of the vehicles are subject to all provisions of the Revised Code, and all rules adopted under the Revised Code, pertaining to drivers and mechanics of such vehicles. The community school also shall comply with sections 3313.201, 3327.09, and 3327.10 of the Revised Code, division (B) of section 3327.16 of the Revised Code and, subject to division (C)(1) of this section, sections 3327.01 and 3327.02 of the Revised Code, as if it were a school district.

**Sec. 3314.38.** (A) An individual who is at least twenty-two years of age and who is an eligible individual as defined in section 3317.23 of the Revised Code may enroll for up to two consecutive school years in a dropout prevention and recovery program operated by a community school that is designed to allow enrollees to earn a high school diploma. An individual enrolled under this division may elect to satisfy the requirements to earn a high school diploma by successfully completing a competency-based educational program, as defined in section 3317.23 of the Revised Code, that complies with the standards adopted by the department of education under section 3317.231 of the Revised Code. The community school shall report that individual's enrollment on a full-time equivalency basis to the department. This report shall be in addition to the report required under division (B) of section 3314.08 of the Revised Code. An individual enrolled under this division shall not be assigned to classes or settings with students who are younger than eighteen years of age.

(B)(1) For each community school that enrolls individuals under division (A) of this section, the department annually shall certify the enrollment and attendance, on a full-time equivalency basis, of each individual reported by the school under that division.

(2) For each individual enrolled in a community school under division (A) of this section, the department annually shall pay the community school up to \$5,000, as determined by the department based on the extent of the individual's successful completion of the graduation requirements prescribed under division (A)(11)(f) of section 3314.03 of the Revised Code.

(C) A community school that enrolls individuals under division (A) of this section shall be subject to the program administration standards adopted by the department under section 3317.231 of the Revised Code, as applicable.

**Sec. 3315.08.** In any school district the salaries of all employees and officers of the board of education and all payrolls may be paid in such manner as the board may authorize. To provide money for such payment if made in cash, the president and the treasurer of the board shall, upon receipt of the proper payroll and warrant, issue checks upon the depositories payable to the treasurer of the

board for the aggregate amounts stated in such payrolls. The treasurer may thereupon make payments to employees and officers in cash, or the board may provide that the sums called for by such checks, instead of being paid to the treasurer, shall be transferred to special payroll accounts established in depositories by the board upon such terms with the respective banks as to interest upon daily cash balances in said special payroll accounts, and under such other conditions as the board prescribes. In the event such special payroll accounts are established by a board, such accounts may be drawn against by check of the treasurer of the board according to such procedure as the board may prescribe. In the event a board creates a payroll account, any bond given by the depository, under section 135.18, 135.181, or 135.182 of the Revised Code, shall also be for the protection of such special payroll account as may be deposited in said bank. The aggregate of all board deposits in a bank, including special payroll accounts as authorized in this section, must not exceed the aggregate of the bond given by the bank. The aggregate of all deposits in a bank, including special payroll accounts, shall be subject to sections 135.01 to 135.21 of the Revised Code.

**Sec. 3317.01.** As used in this section, "school district," unless otherwise specified, means any city, local, exempted village, joint vocational, or cooperative education school district and any educational service center.

This chapter shall be administered by the state board of education. The superintendent of public instruction shall calculate the amounts payable to each school district and shall certify the amounts payable to each eligible district to the treasurer of the district as provided by this chapter. As soon as possible after such amounts are calculated, the superintendent shall certify to the treasurer of each school district the district's adjusted charge-off increase, as defined in section 5705.211 of the Revised Code. Certification of moneys pursuant to this section shall include the amounts payable to each school building, at a frequency determined by the superintendent, for each subgroup of students, as defined in section 3317.40 of the Revised Code, receiving services, provided for by state funding, from the district or school. No moneys shall be distributed pursuant to this chapter without the approval of the controlling board.

The state board of education shall, in accordance with appropriations made by the general assembly, meet the financial obligations of this chapter.

Moneys distributed to school districts pursuant to this chapter shall be calculated based on the annual enrollment calculated from the three reports required under sections 3317.03 and 3317.036 of the Revised Code and paid on a fiscal year basis, beginning with the first day of July and extending through the thirtieth day of June. In any given fiscal year, prior to school districts submitting the first report required under section 3317.03 of the Revised Code, enrollment for the districts shall be calculated based on the third report submitted by the districts for the previous fiscal year. The moneys appropriated for each fiscal year shall be distributed periodically to each school district unless otherwise provided for. The state board, in June of each year, shall submit to the controlling board the state board's year-end distributions pursuant to this chapter.

Except as otherwise provided, payments under this chapter shall be made only to those school districts in which:

(A) The school district, except for any educational service center and any joint vocational or cooperative education school district, levies for current operating expenses at least twenty mills. Levies for joint vocational or cooperative education school districts or county school financing

districts, limited to or to the extent apportioned to current expenses, shall be included in this qualification requirement. School district income tax levies under Chapter 5748. of the Revised Code, limited to or to the extent apportioned to current operating expenses, shall be included in this qualification requirement to the extent determined by the tax commissioner under division (C) of section 3317.021 of the Revised Code.

(B) The school year next preceding the fiscal year for which such payments are authorized meets the requirement of section 3313.48 of the Revised Code, with regard to the minimum number of hours school must be open for instruction with pupils in attendance, for individualized parent-teacher conference and reporting periods, and for professional meetings of teachers.

A school district shall not be considered to have failed to comply with this division because schools were open for instruction but either twelfth grade students were excused from attendance for up to the equivalent of three school days or only a portion of the kindergarten students were in attendance for up to the equivalent of three school days in order to allow for the gradual orientation to school of such students.

A board of education or governing board of an educational service center which has not conformed with other law and the rules pursuant thereto, shall not participate in the distribution of funds authorized by this chapter, except for good and sufficient reason established to the satisfaction of the state board of education and the state controlling board.

All funds allocated to school districts under this chapter, except those specifically allocated for other purposes, shall be used to pay current operating expenses only.

**Sec. 3317.013.** The amounts for the following categories of special education programs, as these programs are defined for purposes of Chapter 3323. of the Revised Code, are as follows:

(A) An amount of \$1,578 for each student whose primary or only identified disability is a speech and language disability, as this term is defined pursuant to Chapter 3323. of the Revised Code;

(B) An amount of \$4,005 for each student identified as specific learning disabled or developmentally disabled, as these terms are defined pursuant to Chapter 3323. of the Revised Code, identified as having an other health impairment-minor, or identified as a preschool child who is developmentally delayed;

(C) An amount of \$9,622 for each student identified as hearing disabled or severe behavior disabled, as these terms are defined pursuant to Chapter 3323. of the Revised Code;

(D) An amount of \$12,841 for each student identified as vision impaired, as this term is defined pursuant to Chapter 3323. of the Revised Code, or as having an other health impairment-major;

(E) An amount of \$17,390 for each student identified as orthopedically disabled or as having multiple disabilities, as these terms are defined pursuant to Chapter 3323. of the Revised Code;

(F) An amount of \$25,637 for each student identified as autistic, having traumatic brain injuries, or as both visually and hearing impaired, as these terms are defined pursuant to Chapter 3323. of the Revised Code.

**Sec. 3317.014.** The career-technical education additional amount per pupil for each student enrolled in career-technical education programs approved by the department of education under section 3317.161 of the Revised Code shall be as follows:



(A) An amount of \$5,192 for each student enrolled in career-technical education workforce development programs in agricultural and environmental systems, construction technologies, engineering and science technologies, finance, health science, information technology, and manufacturing technologies, each of which shall be defined by the department in consultation with the governor's office of workforce transformation;

(B) An amount of \$4,921 for each student enrolled in workforce development programs in business and administration, hospitality and tourism, human services, law and public safety, transportation systems, and arts and communications, each of which shall be defined by the department in consultation with the governor's office of workforce transformation;

(C) An amount of \$1,795 for students enrolled in career-based intervention programs, which shall be defined by the department in consultation with the governor's office of workforce transformation;

(D) An amount of \$1,525 for students enrolled in workforce development programs in education and training, marketing, workforce development academics, public administration, and career development, each of which shall be defined by the department of education in consultation with the governor's office of workforce transformation;

(E) An amount of \$1,308 for students enrolled in family and consumer science programs, which shall be defined by the department of education in consultation with the governor's office of workforce transformation.

The amount for career-technical education associated services, as defined by the department, shall be \$245.

**Sec. 3317.016.** The amounts for limited English proficient students shall be as follows:

(A) An amount of \$1,515 for each student who has been enrolled in schools in the United States for 180 school days or less and was not previously exempted from taking the spring administration of either of the state's English language arts assessments prescribed by section 3301.0710 of the Revised Code (reading or writing).

(B) An amount of \$1,136 for each student who has been enrolled in schools in the United States for more than 180 school days or was previously exempted from taking the spring administration of either of the state's English language arts assessments prescribed by section 3301.0710 of the Revised Code (reading or writing).

(C) An amount of \$758 for each student who does not qualify for inclusion under division (A) or (B) of this section and is in a trial-mainstream period, as defined by the department.

**Sec. 3317.017.** The department of education shall compute a school district's state share index as follows:

(A) Calculate the district's valuation index, which equals the following quotient:

(The district's three-year average valuation / the district's total ADM) / (the statewide three-year average valuation for school districts with a total ADM greater than zero / the statewide total ADM)

(B)(1) Calculate the district's median income index, which equals the following quotient:

(The district's median Ohio adjusted gross income / the median of the median Ohio adjusted gross income of all districts statewide with a total ADM greater than zero)

(2) Calculate the district's income index, which equals the following sum:

(The district's median income index X 0.5) + {[the three-year average federal adjusted gross income of the school district's residents / the district's formula ADM for fiscal year 2017) / (the three-year average federal adjusted gross income of all districts statewide with a formula ADM for fiscal year 2017 greater than zero / the statewide formula ADM for fiscal year 2017)] X 0.5}

(C) Determine the district's wealth index as follows:

(1) If the district's income index is less than the district's valuation index and the district's median income index is less than or equal to 1.5, then the district's wealth index shall be equal to [( 0.4 X the district's income index) + ( 0.6 X the district's valuation index)].

(2) If the district's income index does not meet both of the conditions described in division (C)(1) of this section, then the district's wealth index shall be equal to the district's valuation index.

(D) Determine the district's state share index as follows:

(1) If the district's wealth index is less than or equal to 0.35, then the district's state share index shall be equal to 0.90.

(2) If the district's wealth index is greater than 0.35 but less than or equal to 0.90, then the district's state share index shall be equal to {0.40 X [(0.90 – the district's wealth index) / 0.55]} + 0.50.

(3) If the district's wealth index is greater than 0.90 but less than 1.8, then the district's state share index shall be equal to {0.45 X [(1.8 – the district's wealth index) / 0.9]} + 0.05.

(4) If the district's wealth index is greater than or equal to 1.8, then the district's state share index shall be equal to 0.05.

(E)(1) For each school district for which the tax-exempt value of the district, as certified under division (A)(4) of section 3317.021 of the Revised Code, equals or exceeds thirty per cent of the potential value of the district, the department shall calculate the difference between the district's tax-exempt value and thirty per cent of the district's potential value. For this purpose, the "potential value" of a school district is the three-year average valuation of the district plus the tax-exempt value of the district.

(2) For each school district to which division (E)(1) of this section applies, the department shall adjust the district's three-year average valuation used in the calculation under division (A) of this section by subtracting from it the amount calculated under division (E)(1) of this section. The department shall not, however, make any adjustments to the statewide three-year average valuation used in the calculation under division (A) of this section.

(F)(1) Except as provided in division (F)(3) of this section, for purposes of division (F) of this section, for fiscal year 2018 or 2019, an "eligible school district" is a school district that satisfies all of the following for that fiscal year:

(a) The total taxable value of public utility personal property in the district is at least ten per cent of the district's total taxable value for the tax year immediately preceding the most recent tax year for which data is available.

(b) The total taxable value of public utility personal property in the district for the most recent tax year for which data is available is at least ten per cent less than the total taxable value of public utility property in the district for the tax year immediately preceding the most recent tax year for which data is available.

(c) The total taxable value of power plants in the district for the most recent tax year for which data is available is at least ten per cent less than the total taxable value of power plants in the district for the tax year immediately preceding the most recent tax year for which data is available.

(2) Notwithstanding divisions (A) to (E) of this section, the department shall compute each eligible school district's state share index as follows:

(a) Calculate the district's valuation index in accordance with division (A) of this section, except that, if the district's total taxable value for the most recent tax year for which data is available is less than the district's "three-year average valuation," the district's "three-year average valuation" shall be replaced in that calculation with the district's total taxable value for the most recent tax year for which data is available;

(b) Calculate the district's median income index and income index in accordance with division (B) of this section;

(c) Determine the district's wealth index in accordance with division (C) of this section using the district's valuation index, median income index, and income index as calculated under divisions (F)(2)(a) and (b) of this section;

(d) Determine the district's state share index in accordance with division (D) of this section using the district's wealth index as determined under division (F)(2)(c) of this section.

(3) For purposes of division (F) of this section, if a district is an eligible school district for fiscal year 2018 but is not an eligible school district for fiscal year 2019, the district's state share index for fiscal year 2019 shall be equal to the district's state share index for 2018.

(G) When performing the calculations required under this section, the department shall not round to fewer than four decimal places.

For purposes of these calculations for fiscal years 2018 and 2019, "total ADM" means the total ADM for fiscal year 2017; "median Ohio adjusted gross income" means the median Ohio adjusted gross income, as that term is defined in section 5747.01 of the Revised Code, for tax year 2015; "three-year average federal adjusted gross income" means the average of the federal adjusted gross income for tax years 2013, 2014, and 2015 as reported under section 3317.021 of the Revised Code; and "tax-exempt value" means the tax-exempt value for tax year 2016.

**Sec. 3317.018.**

**Sec. 3317.019.**

**Sec. 3317.02.** As used in this chapter:

(A)(1) "Category one career-technical education ADM" means the enrollment of students during the school year on a full-time equivalency basis in career-technical education programs described in division (A) of section 3317.014 of the Revised Code and certified under division (B)(11) or (D)(2)(h) of section 3317.03 of the Revised Code.

(2) "Category two career-technical education ADM" means the enrollment of students during the school year on a full-time equivalency basis in career-technical education programs described in division (B) of section 3317.014 of the Revised Code and certified under division (B)(12) or (D)(2)(i) of section 3317.03 of the Revised Code.

(3) "Category three career-technical education ADM" means the enrollment of students during the school year on a full-time equivalency basis in career-technical education programs described in division (C) of section 3317.014 of the Revised Code and certified under division (B)

(13) or (D)(2)(j) of section 3317.03 of the Revised Code.

(4) "Category four career-technical education ADM" means the enrollment of students during the school year on a full-time equivalency basis in career-technical education programs described in division (D) of section 3317.014 of the Revised Code and certified under division (B)(14) or (D)(2)(k) of section 3317.03 of the Revised Code.

(5) "Category five career-technical education ADM" means the enrollment of students during the school year on a full-time equivalency basis in career-technical education programs described in division (E) of section 3317.014 of the Revised Code and certified under division (B)(15) or (D)(2)(l) of section 3317.03 of the Revised Code.

(B)(1) "Category one limited English proficient ADM" means the full-time equivalent number of limited English proficient students described in division (A) of section 3317.016 of the Revised Code and certified under division (B)(16) or (D)(2)(m) of section 3317.03 of the Revised Code.

(2) "Category two limited English proficient ADM" means the full-time equivalent number of limited English proficient students described in division (B) of section 3317.016 of the Revised Code and certified under division (B)(17) or (D)(2)(n) of section 3317.03 of the Revised Code.

(3) "Category three limited English proficient ADM" means the full-time equivalent number of limited English proficient students described in division (C) of section 3317.016 of the Revised Code and certified under division (B)(18) or (D)(2)(o) of section 3317.03 of the Revised Code.

(C)(1) "Category one special education ADM" means the full-time equivalent number of children with disabilities receiving special education services for the disability specified in division (A) of section 3317.013 of the Revised Code and certified under division (B)(5) or (D)(2)(b) of section 3317.03 of the Revised Code.

(2) "Category two special education ADM" means the full-time equivalent number of children with disabilities receiving special education services for those disabilities specified in division (B) of section 3317.013 of the Revised Code and certified under division (B)(6) or (D)(2)(c) of section 3317.03 of the Revised Code.

(3) "Category three special education ADM" means the full-time equivalent number of students receiving special education services for those disabilities specified in division (C) of section 3317.013 of the Revised Code, and certified under division (B)(7) or (D)(2)(d) of section 3317.03 of the Revised Code.

(4) "Category four special education ADM" means the full-time equivalent number of students receiving special education services for those disabilities specified in division (D) of section 3317.013 of the Revised Code and certified under division (B)(8) or (D)(2)(e) of section 3317.03 of the Revised Code.

(5) "Category five special education ADM" means the full-time equivalent number of students receiving special education services for the disabilities specified in division (E) of section 3317.013 of the Revised Code and certified under division (B)(9) or (D)(2)(f) of section 3317.03 of the Revised Code.

(6) "Category six special education ADM" means the full-time equivalent number of students receiving special education services for the disabilities specified in division (F) of section 3317.013 of the Revised Code and certified under division (B)(10) or (D)(2)(g) of section 3317.03 of the

Revised Code.

(D) "Economically disadvantaged index for a school district" means the square of the quotient of that district's percentage of students in its total ADM who are identified as economically disadvantaged as defined by the department of education, divided by the percentage of students in the statewide total ADM identified as economically disadvantaged. For purposes of this calculation:

(1) For a city, local, or exempted village school district, the "statewide total ADM" equals the sum of the total ADM for all city, local, and exempted village school districts combined.

(2) For a joint vocational school district, the "statewide total ADM" equals the sum of the formula ADM for all joint vocational school districts combined.

(E)(1) "Formula ADM" means, for a city, local, or exempted village school district, the enrollment reported under division (A) of section 3317.03 of the Revised Code, as verified by the superintendent of public instruction and adjusted if so ordered under division (K) of that section, and as further adjusted by the department of education, as follows:

(a) Count only twenty per cent of the number of joint vocational school district students counted under division (A)(3) of section 3317.03 of the Revised Code;

(b) Add twenty per cent of the number of students who are entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code and are enrolled in another school district under a career-technical education compact.

(2) "Formula ADM" means, for a joint vocational school district, the final number verified by the superintendent of public instruction, based on the enrollment reported and certified under division (D) of section 3317.03 of the Revised Code, as adjusted, if so ordered, under division (K) of that section.

(F) "Formula amount" means \$6,010, for fiscal year 2018, and \$6,020, for fiscal year 2019.

(G) "FTE basis" means a count of students based on full-time equivalency, in accordance with rules adopted by the department of education pursuant to section 3317.03 of the Revised Code. In adopting its rules under this division, the department shall provide for counting any student in category one, two, three, four, five, or six special education ADM or in category one, two, three, four, or five career-technical education ADM in the same proportion the student is counted in formula ADM.

(H) "Internet- or computer-based community school" has the same meaning as in section 3314.02 of the Revised Code.

(I) "Medically fragile child" means a child to whom all of the following apply:

(1) The child requires the services of a doctor of medicine or osteopathic medicine at least once a week due to the instability of the child's medical condition.

(2) The child requires the services of a registered nurse on a daily basis.

(3) The child is at risk of institutionalization in a hospital, skilled nursing facility, or intermediate care facility for individuals with intellectual disabilities.

(J)(1) A child may be identified as having an "other health impairment-major" if the child's condition meets the definition of "other health impaired" established in rules previously adopted by the state board of education and if either of the following apply:

(a) The child is identified as having a medical condition that is among those listed by the superintendent of public instruction as conditions where a substantial majority of cases fall within the

definition of "medically fragile child."

(b) The child is determined by the superintendent of public instruction to be a medically fragile child. A school district superintendent may petition the superintendent of public instruction for a determination that a child is a medically fragile child.

(2) A child may be identified as having an "other health impairment-minor" if the child's condition meets the definition of "other health impaired" established in rules previously adopted by the state board of education but the child's condition does not meet either of the conditions specified in division (J)(1)(a) or (b) of this section.

(K) "Preschool child with a disability" means a child with a disability, as defined in section 3323.01 of the Revised Code, who is at least age three but is not of compulsory school age, as defined in section 3321.01 of the Revised Code, and who is not currently enrolled in kindergarten.

(L) "Preschool scholarship ADM" means the number of preschool children with disabilities certified under division (B)(3)(h) of section 3317.03 of the Revised Code.

(M) "Related services" includes:

(1) Child study, special education supervisors and coordinators, speech and hearing services, adaptive physical development services, occupational or physical therapy, teacher assistants for children with disabilities whose disabilities are described in division (B) of section 3317.013 or division (B)(3) of this section, behavioral intervention, interpreter services, work study, nursing services, and specialized integrative services as those terms are defined by the department;

(2) Speech and language services provided to any student with a disability, including any student whose primary or only disability is a speech and language disability;

(3) Any related service not specifically covered by other state funds but specified in federal law, including but not limited to, audiology and school psychological services;

(4) Any service included in units funded under former division (O)(1) of section 3317.024 of the Revised Code;

(5) Any other related service needed by children with disabilities in accordance with their individualized education programs.

(N) "School district," unless otherwise specified, means city, local, and exempted village school districts.

(O) "State education aid" has the same meaning as in section 5751.20 of the Revised Code.

(P) "State share index" means the state share index calculated for a district under section 3317.017 of the Revised Code.

(Q) "Taxes charged and payable" means the taxes charged and payable against real and public utility property after making the reduction required by section 319.301 of the Revised Code, plus the taxes levied against tangible personal property.

(R)(1) For purposes of section 3317.017 of the Revised Code, "three-year average valuation" means the average of total taxable value for tax years 2014, 2015, and 2016.

(2) For purposes of sections 3317.0217, 3317.0218, and 3317.16 of the Revised Code, "three-year average valuation" means the following:

(a) For fiscal year 2018, the average of total taxable value for tax years 2014, 2015, and 2016;

(b) For fiscal year 2019, the average of total taxable value for tax years 2015, 2016, and

2017.

(S) "Total ADM" means, for a city, local, or exempted village school district, the enrollment reported under division (A) of section 3317.03 of the Revised Code, as verified by the superintendent of public instruction and adjusted if so ordered under division (K) of that section.

(T) "Total special education ADM" means the sum of categories one through six special education ADM.

(U) "Total taxable value" means the sum of the amounts certified for a city, local, exempted village, or joint vocational school district under divisions (A)(1) and (2) of section 3317.021 of the Revised Code.

**Sec. 3317.021.** (A) On or before the first day of June of each year, the tax commissioner shall certify to the department of education and the office of budget and management the information described in divisions (A)(1) to (5) of this section for each city, exempted village, and local school district, and the information required by divisions (A)(1) and (2) of this section for each joint vocational school district, and it shall be used, along with the information certified under division (B) of this section, in making the computations for the district under this chapter.

(1) The taxable value of real and public utility real property in the school district subject to taxation in the preceding tax year, by class and by county of location.

(2) The taxable value of tangible personal property, including public utility personal property, subject to taxation by the district for the preceding tax year.

(3)(a) The total property tax rate and total taxes charged and payable for the current expenses for the preceding tax year and the total property tax rate and the total taxes charged and payable to a joint vocational district for the preceding tax year that are limited to or to the extent apportioned to current expenses.

(b) The portion of the amount of taxes charged and payable reported for each city, local, and exempted village school district under division (A)(3)(a) of this section attributable to a joint vocational school district.

(4) The value of all real and public utility real property in the school district exempted from taxation minus both of the following:

(a) The value of real and public utility real property in the district owned by the United States government and used exclusively for a public purpose;

(b) The value of real and public utility real property in the district exempted from taxation under Chapter 725. or 1728. or section 3735.67, 5709.40, 5709.41, 5709.45, 5709.62, 5709.63, 5709.632, 5709.73, or 5709.78 of the Revised Code.

(5) The total federal adjusted gross income of the residents of the school district, based on tax returns filed by the residents of the district, for the most recent year for which this information is available, and the median Ohio adjusted gross income of the residents of the school district determined on the basis of tax returns filed for the second preceding tax year by the residents of the district.

(B) On or before the first day of May each year, the tax commissioner shall certify to the department of education and the office of budget and management the total taxable real property value of railroads and, separately, the total taxable tangible personal property value of all public utilities for the preceding tax year, by school district and by county of location.

(C) If on the basis of the information certified under division (A) of this section, the department determines that any district fails in any year to meet the qualification requirement specified in division (A) of section 3317.01 of the Revised Code, the department shall immediately request the tax commissioner to determine the extent to which any school district income tax levied by the district under Chapter 5748. of the Revised Code shall be included in meeting that requirement. Within five days of receiving such a request from the department, the tax commissioner shall make the determination required by this division and report the quotient obtained under division (C)(3) of this section to the department and the office of budget and management. This quotient represents the number of mills that the department shall include in determining whether the district meets the qualification requirement of division (A) of section 3317.01 of the Revised Code.

The tax commissioner shall make the determination required by this division as follows:

(1) Multiply one mill times the total taxable value of the district as determined in divisions (A)(1) and (2) of this section;

(2) Estimate the total amount of tax liability for the current tax year under taxes levied by Chapter 5748. of the Revised Code that are apportioned to current operating expenses of the district, excluding any income tax receipts allocated for the project cost, debt service, or maintenance set-aside associated with a state-assisted classroom facilities project as authorized by section 3318.052 of the Revised Code;

(3) Divide the amount estimated under division (C)(2) of this section by the product obtained under division (C)(1) of this section.

**Sec. 3317.022.** (A) The department of education shall compute and distribute state core foundation funding to each eligible school district for the fiscal year, using the information obtained under section 3317.021 of the Revised Code in the calendar year in which the fiscal year begins, as prescribed in the following divisions:

(1) An opportunity grant calculated according to the following formula:

The formula amount  $X$  (formula  $ADM + \text{preschool scholarship } ADM$ )  $X$  the district's state share index

(2) Targeted assistance funds calculated under divisions (A) and (B) of section 3317.0217 of the Revised Code;

(3) Additional state aid for special education and related services provided under Chapter 3323. of the Revised Code calculated as the sum of the following:

(a) The district's category one special education  $ADM X$  the amount specified in division (A) of section 3317.013 of the Revised Code  $X$  the district's state share index;

(b) The district's category two special education  $ADM X$  the amount specified in division (B) of section 3317.013 of the Revised Code  $X$  the district's state share index;

(c) The district's category three special education  $ADM X$  the amount specified in division (C) of section 3317.013 of the Revised Code  $X$  the district's state share index;

(d) The district's category four special education  $ADM X$  the amount specified in division (D) of section 3317.013 of the Revised Code  $X$  the district's state share index;

(e) The district's category five special education  $ADM X$  the amount specified in division (E) of section 3317.013 of the Revised Code  $X$  the district's state share index;

(f) The district's category six special education  $ADM X$  the amount specified in division (F)



of section 3317.013 of the Revised Code X the district's state share index.

(4) Kindergarten through third grade literacy funds calculated according to the following formula:

$(\$193 \times \text{formula ADM for grades kindergarten through three} \times \text{the district's state share index}) + (\$127 \times \text{formula ADM for grades kindergarten through three})$

For purposes of this calculation, the department shall subtract from a district's formula ADM for grades kindergarten through three the number of students reported under division (B)(3)(e) of section 3317.03 of the Revised Code as enrolled in an internet- or computer-based community school who are in grades kindergarten through three.

(5) Economically disadvantaged funds calculated according to the following formula:

$\$272 \times (\text{the district's economically disadvantaged index}) \times \text{the number of students who are economically disadvantaged as certified under division (B)(21) of section 3317.03 of the Revised Code}$

(6) Limited English proficiency funds calculated as the sum of the following:

(a) The district's category one limited English proficient ADM X the amount specified in division (A) of section 3317.016 of the Revised Code X the district's state share index;

(b) The district's category two limited English proficient ADM X the amount specified in division (B) of section 3317.016 of the Revised Code X the district's state share index;

(c) The district's category three limited English proficient ADM X the amount specified in division (C) of section 3317.016 of the Revised Code X the district's state share index.

(7)(a) Gifted identification funds calculated according to the following formula:

$\$5.05 \times \text{the district's formula ADM}$

(b) Gifted unit funding calculated under section 3317.051 of the Revised Code.

(8) Career-technical education funds calculated as the sum of the following:

(a) The district's category one career-technical education ADM X the amount specified in division (A) of section 3317.014 of the Revised Code X the district's state share index;

(b) The district's category two career-technical education ADM X the amount specified in division (B) of section 3317.014 of the Revised Code X the district's state share index;

(c) The district's category three career-technical education ADM X the amount specified in division (C) of section 3317.014 of the Revised Code X the district's state share index;

(d) The district's category four career-technical education ADM X the amount specified in division (D) of section 3317.014 of the Revised Code X the district's state share index;

(e) The district's category five career-technical education ADM X the amount specified in division (E) of section 3317.014 of the Revised Code X the district's state share index.

Payment of funds under division (A)(8) of this section is subject to approval under section 3317.161 of the Revised Code.

(9) Career-technical education associated services funds calculated according to the following formula:

$\text{The district's state share index} \times \text{the amount for career-technical education associated services specified in section 3317.014 of the Revised Code} \times \text{the sum of categories one through five career-technical education ADM}$

- (10) Capacity aid funds calculated under section 3317.0218 of the Revised Code;
- (11) A graduation bonus calculated under section 3317.0215 of the Revised Code;
- (12) A third-grade reading bonus calculated under section 3317.0216 of the Revised Code.

(B) In any fiscal year, a school district shall spend for purposes that the department designates as approved for special education and related services expenses at least the amount calculated as follows:

(The formula amount X the total special education ADM) + (the district's category one special education ADM X the amount specified in division (A) of section 3317.013 of the Revised Code) + (the district's category two special education ADM X the amount specified in division (B) of section 3317.013 of the Revised Code) + (the district's category three special education ADM X the amount specified in division (C) of section 3317.013 of the Revised Code) + (the district's category four special education ADM X the amount specified in division (D) of section 3317.013 of the Revised Code) + (the district's category five special education ADM X the amount specified in division (E) of section 3317.013 of the Revised Code) + (the district's category six special education ADM X the amount specified in division (F) of section 3317.013 of the Revised Code)

The purposes approved by the department for special education expenses shall include, but shall not be limited to, identification of children with disabilities, compliance with state rules governing the education of children with disabilities and prescribing the continuum of program options for children with disabilities, provision of speech language pathology services, and the portion of the school district's overall administrative and overhead costs that are attributable to the district's special education student population.

The scholarships deducted from the school district's account under sections 3310.41 and 3310.55 of the Revised Code shall be considered to be an approved special education and related services expense for the purpose of the school district's compliance with this division.

(C) In any fiscal year, a school district receiving funds under division (A)(8) of this section shall spend those funds only for the purposes that the department designates as approved for career-technical education expenses. Career-technical education expenses approved by the department shall include only expenses connected to the delivery of career-technical programming to career-technical students. The department shall require the school district to report data annually so that the department may monitor the district's compliance with the requirements regarding the manner in which funding received under division (A)(8) of this section may be spent.

(D) In any fiscal year, a school district receiving funds under division (A)(9) of this section, or through a transfer of funds pursuant to division (I) of section 3317.023 of the Revised Code, shall spend those funds only for the purposes that the department designates as approved for career-technical education associated services expenses, which may include such purposes as apprenticeship coordinators, coordinators for other career-technical education services, career-technical evaluation, and other purposes designated by the department. The department may deny payment under division (A)(9) of this section to any district that the department determines is not operating those services or is using funds paid under division (A)(9) of this section, or through a transfer of funds pursuant to

division (I) of section 3317.023 of the Revised Code, for other purposes.

(E) All funds received under division (A)(8) of this section shall be spent in the following manner:

(1) At least seventy-five per cent of the funds shall be spent on curriculum development, purchase, and implementation; instructional resources and supplies; industry-based program certification; student assessment, credentialing, and placement; curriculum specific equipment purchases and leases; career-technical student organization fees and expenses; home and agency linkages; work-based learning experiences; professional development; and other costs directly associated with career-technical education programs including development of new programs.

(2) Not more than twenty-five per cent of the funds shall be used for personnel expenditures.

(F) A school district shall spend the funds it receives under division (A)(5) of this section in accordance with section 3317.25 of the Revised Code.

**Sec. 3317.0212.** (A) As used in this section:

(1) "Qualifying riders" means resident students enrolled in regular education in grades kindergarten to twelve who are provided school bus service by a school district and who live more than one mile from the school they attend, including students with dual enrollment in a joint vocational school district or a cooperative education school district, and students enrolled in a community school, STEM school, or nonpublic school.

(2) "Qualifying ridership" means the average number of qualifying riders who are provided school bus service by a school district during the first full week of October.

(3) "Rider density" means the total ADM per square mile of a school district.

(4) "School bus service" means a school district's transportation of qualifying riders in any of the following types of vehicles:

(a) School buses owned or leased by the district;

(b) School buses operated by a private contractor hired by the district;

(c) School buses operated by another school district or entity with which the district has contracted, either as part of a consortium for the provision of transportation or otherwise.

(B) Not later than the fifteenth day of October each year, each city, local, and exempted village school district shall report to the department of education its qualifying ridership and any other information requested by the department. Subsequent adjustments to the reported numbers shall be made only in accordance with rules adopted by the department.

(C) The department shall calculate the statewide transportation cost per student as follows:

(1) Determine each city, local, and exempted village school district's transportation cost per student by dividing the district's total costs for school bus service in the previous fiscal year by its qualifying ridership in the previous fiscal year.

(2) After excluding districts that do not provide school bus service and the ten districts with the highest transportation costs per student and the ten districts with the lowest transportation costs per student, divide the aggregate cost for school bus service for the remaining districts in the previous fiscal year by the aggregate qualifying ridership of those districts in the previous fiscal year.

(D) The department shall calculate the statewide transportation cost per mile as follows:

(1) Determine each city, local, and exempted village school district's transportation cost per mile by dividing the district's total costs for school bus service in the previous fiscal year by its total

number of miles driven for school bus service in the previous fiscal year.

(2) After excluding districts that do not provide school bus service and the ten districts with the highest transportation costs per mile and the ten districts with the lowest transportation costs per mile, divide the aggregate cost for school bus service for the remaining districts in the previous fiscal year by the aggregate miles driven for school bus service in those districts in the previous fiscal year.

(E) The department shall calculate each city, local, and exempted village school district's transportation payment as follows:

(1) Multiply the statewide transportation cost per student by the district's qualifying ridership for the current fiscal year.

(2) Multiply the statewide transportation cost per mile by the district's total number of miles driven for school bus service in the current fiscal year.

(3) Multiply the greater of the amounts calculated under divisions (E)(1) and (2) of this section by the following:

(a) For fiscal year 2018, the greater of thirty-seven and one-half per cent or the district's state share index, as defined in section 3317.02 of the Revised Code;

(b) For fiscal year 2019, the greater of twenty-five per cent or the district's state share index.

(F) In addition to funds paid under division (E) of this section, each city, local, and exempted village district shall receive in accordance with rules adopted by the state board of education a payment for students transported by means other than school bus service and whose transportation is not funded under division (C) of section 3317.024 of the Revised Code. The rules shall include provisions for school district reporting of such students.

(G)(1) For purposes of division (G) of this section, a school district's "transportation supplement percentage" means the following quotient:

$$(50 - \text{the district's rider density}) / 100$$

If the result of the calculation for a district under division (G)(1) of this section is less than zero, the district's transportation supplement percentage shall be zero.

(2) The department shall pay each district a transportation supplement calculated according to the following formula:

The district's transportation supplement percentage X the amount calculated for the district under  
division (E)(2) of this section X 0.55

**Sec. 3317.0213.** (A) The department of education shall compute and pay in accordance with this section additional state aid for preschool children with disabilities to each city, local, and exempted village school district and to each institution, as defined in section 3323.091 of the Revised Code. Funding shall be provided for children who are not enrolled in kindergarten and who are under age six on the thirtieth day of September of the academic year, or on the first day of August of the academic year if the school district in which the child is enrolled has adopted a resolution under division (A)(3) of section 3321.01 of the Revised Code, but not less than age three on the first day of December of the academic year.

The additional state aid shall be calculated under the following formula:

(\$4,000 X the number of students who are preschool children with disabilities) + the sum of the following:

(1) The district's or institution's category one special education students who are preschool children with disabilities X the amount specified in division (A) of section 3317.013 of the Revised Code X the district's state share index X 0.50;

(2) The district's or institution's category two special education students who are preschool children with disabilities X the amount specified in division (B) of section 3317.013 of the Revised Code X the district's state share index X 0.50;

(3) The district's or institution's category three special education students who are preschool children with disabilities X the amount specified in division (C) of section 3317.013 of the Revised Code X the district's state share index X 0.50;

(4) The district's or institution's category four special education students who are preschool children with disabilities X the amount specified in division (D) of section 3317.013 of the Revised Code X the district's state share index X 0.50;

(5) The district's or institution's category five special education students who are preschool children with disabilities X the amount specified in division (E) of section 3317.013 of the Revised Code X the district's state share index X 0.50;

(6) The district's or institution's category six special education students who are preschool children with disabilities X the amount specified in division (F) of section 3317.013 of the Revised Code X the district's state share index X 0.50.

The special education disability categories for preschool children used in this section are the same categories prescribed in section 3317.013 of the Revised Code.

As used in division (A) of this section, the state share index of a student enrolled in an institution is the state share index of the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(B) If an educational service center is providing services to students who are preschool children with disabilities under agreement with the city, local, or exempted village school district in which the students are entitled to attend school, that district may authorize the department to transfer funds computed under this section to the service center providing those services.

(C) If a county DD board is providing services to students who are preschool children with disabilities under agreement with the city, local, or exempted village school district in which the students are entitled to attend school, the department shall deduct from the district's payment computed under division (A) of this section the total amount of those funds that are attributable to the students served by the county DD board and pay that amount to that board.

**Sec. 3317.0215.**

**Sec. 3317.0216.**

**Sec. 3317.0217.** Payment of the amount calculated for a school district under this section shall be made under division (A) of section 3317.022 of the Revised Code.

(A) The department of education shall annually compute targeted assistance funds to school districts, as follows:

(1) Calculate the local wealth per pupil of each school district, which equals the following sum:

(a) One-half times the quotient of (i) the district's three-year average valuation divided by (ii) its formula ADM; plus

(b) One-half times the quotient of (i) the average of the total federal adjusted gross income of the school district's residents for the three years most recently reported under section 3317.021 of the Revised Code divided by (ii) its formula ADM.

(2) Rank all school districts in order of local wealth per pupil, from the district with the lowest local wealth per pupil to the district with the highest local wealth per pupil.

(3) Compute the statewide wealth per pupil, which equals the following sum:

(a) One-half times the quotient of (i) the sum of the three-year average valuations for all school districts divided by (ii) the sum of formula ADM counts for all school districts; plus

(b) One-half times the quotient of (i) the sum of the three-year average total federal adjusted gross incomes for all school districts divided by (ii) the sum of formula ADM counts for all school districts.

(4) Compute each district's wealth index by dividing the statewide wealth per pupil by the district's local wealth per pupil.

(5) Compute the per pupil targeted assistance for each eligible school district in accordance with the following formula:

(Threshold local wealth per pupil - the district's local wealth per pupil) X target millage X the  
district's wealth index

Where:

(a) An "eligible school district" means a school district with a local wealth per pupil less than that of the school district with the 490th lowest local wealth per pupil.

(b) "Threshold local wealth per pupil" means the local wealth per pupil of the school district with the 490th lowest local wealth per pupil.

(c) "Target millage" means 0.006.

If the result of the calculation for a school district under division (A)(5) of this section is less than zero, the district's targeted assistance shall be zero.

(6) Calculate the aggregate amount to be paid as targeted assistance funds to each school district under division (A) of section 3317.022 of the Revised Code by multiplying the per pupil targeted assistance computed under division (A)(5) of this section by the district's net formula ADM.

As used in this division, a district's "net formula ADM" means its formula ADM minus the number of community school students certified under division (B)(3)(d) of section 3317.03 of the Revised Code X 0.75, the number of internet- and computer-based community school students certified under division (B)(3)(e) of that section, the number of science, technology, engineering, and mathematics school students certified under division (B)(3)(j) of that section X 0.75, and the number of scholarship students certified under divisions (B)(3)(f), (g), and (l) of that section.

(B) The department shall annually compute supplemental targeted assistance funds to school districts, as follows:

(1) Compute each district's agricultural percentage as the quotient of (a) the three-year average valuation of real property in the district that is classified as agricultural property divided by (b) the three-year average valuation of all of the real property in the district.

(2) Calculate the aggregate amount to be paid as supplemental targeted assistance funds to each school district under division (A) of section 3317.022 of the Revised Code, as follows:

(The district's agricultural percentage – 0.1) X (0.4 X the formula amount) X the district's net formula ADM, as that term is defined in division (A) of this section

If the result of the calculation for a school district under division (B)(2) of this section is less than zero, the district's supplemental targeted assistance shall be zero.

**Sec. 3317.0218.**

**Sec. 3317.051.** (A) As used in this section, "gifted unit ADM" means a school district's formula ADM minus the number of students reported by a district under divisions (A)(2)(a) and (i) of section 3317.03 of the Revised Code.

(B) The department of education shall compute and pay to a school district funds based on units for services to students identified as gifted under Chapter 3324. of the Revised Code as prescribed by this section.

(C) The department shall allocate gifted units for a school district as follows:

(1) One gifted coordinator unit shall be allocated for every 3,300 students in a district's gifted unit ADM, with a minimum of 0.5 units and a maximum of 8 units allocated for the district.

(2) One gifted intervention specialist unit shall be allocated for every 1,100 students in a district's gifted unit ADM, with a minimum of 0.3 units allocated for the district.

(D) The department shall pay the following amount to a school district for gifted units:

\$37,370 multiplied by the number of units allocated to a school district under division (C) of this section

(E) A school district may assign gifted unit funding that it receives under division (D) of this section to another school district, an educational service center, a community school, or a STEM school as part of an arrangement to provide services to the district.

**Sec. 3317.06.** Moneys paid to school districts under division (E)(1) of section 3317.024 of the Revised Code shall be used for the following independent and fully severable purposes:

(A) To purchase such secular textbooks or digital texts as have been approved by the superintendent of public instruction for use in public schools in the state and to loan such textbooks or digital texts to pupils attending nonpublic schools within the district described in division (E)(1) of section 3317.024 of the Revised Code or to their parents and to hire clerical personnel to administer such lending program. Such loans shall be based upon individual requests submitted by such nonpublic school pupils or parents. Such requests shall be submitted to the school district in which the nonpublic school is located. Such individual requests for the loan of textbooks or digital texts shall, for administrative convenience, be submitted by the nonpublic school pupil or the pupil's parent to the nonpublic school, which shall prepare and submit collective summaries of the individual requests to the school district. As used in this section:

(1) "Textbook" means any book or book substitute that a pupil uses as a consumable or nonconsumable text, text substitute, or text supplement in a particular class or program in the school the pupil regularly attends.

(2) "Digital text" means a consumable book or book substitute that a student accesses through the use of a computer or other electronic medium or that is available through an internet-based provider of course content, or any other material that contributes to the learning process through electronic means.

(B) To provide speech and hearing diagnostic services to pupils attending nonpublic schools within the district described in division (E)(1) of section 3317.024 of the Revised Code. Such service shall be provided in the nonpublic school attended by the pupil receiving the service.

(C) To provide physician, nursing, dental, and optometric services to pupils attending nonpublic schools within the district described in division (E)(1) of section 3317.024 of the Revised Code. Such services shall be provided in the school attended by the nonpublic school pupil receiving the service.

(D) To provide diagnostic psychological services to pupils attending nonpublic schools within the district described in division (E)(1) of section 3317.024 of the Revised Code. Such services shall be provided in the school attended by the pupil receiving the service.

(E) To provide therapeutic psychological and speech and hearing services to pupils attending nonpublic schools within the district described in division (E)(1) of section 3317.024 of the Revised Code. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(F) To provide guidance, counseling, and social work services to pupils attending nonpublic schools within the district described in division (E)(1) of section 3317.024 of the Revised Code. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(G) To provide remedial services to pupils attending nonpublic schools within the district described in division (E)(1) of section 3317.024 of the Revised Code. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(H) To supply for use by pupils attending nonpublic schools within the district described in division (E)(1) of section 3317.024 of the Revised Code such standardized tests and scoring services as are in use in the public schools of the state;

(I) To provide programs for children who attend nonpublic schools within the district described in division (E)(1) of section 3317.024 of the Revised Code and are children with disabilities as defined in section 3323.01 of the Revised Code or gifted children. Such programs shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such programs are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(J) To hire clerical personnel to assist in the administration of programs pursuant to divisions (B), (C), (D), (E), (F), (G), and (I) of this section and to hire supervisory personnel to supervise the providing of services and textbooks pursuant to this section.

(K) To purchase or lease any secular, neutral, and nonideological computer application



software designed to assist students in performing a single task or multiple related tasks, device management software, learning management software, site-licensing, digital video on demand (DVD), wide area connectivity and related technology as it relates to internet access, mathematics or science equipment and materials, instructional materials, and school library materials that are in general use in the public schools of the state and loan such items to pupils attending nonpublic schools within the district described in division (E)(1) of section 3317.024 of the Revised Code or to their parents, and to hire clerical personnel to administer the lending program. Only such items that are incapable of diversion to religious use and that are susceptible of loan to individual pupils and are furnished for the use of individual pupils shall be purchased and loaned under this division. As used in this section, "instructional materials" means prepared learning materials that are secular, neutral, and nonideological in character and are of benefit to the instruction of school children. "Instructional materials" includes media content that a student may access through the use of a computer or electronic device.

Mobile applications that are secular, neutral, and nonideological in character and that are purchased for less than twenty dollars for instructional use shall be considered to be consumable and shall be distributed to students without the expectation that the applications must be returned.

(L) To purchase or lease instructional equipment, including computer hardware and related equipment in general use in the public schools of the state, for use by pupils attending nonpublic schools within the district described in division (E)(1) of section 3317.024 of the Revised Code and to loan such items to pupils attending such nonpublic schools within the district or to their parents, and to hire clerical personnel to administer the lending program. "Computer hardware and related equipment" includes desktop computers and workstations; laptop computers, computer tablets, and other mobile handheld devices; their operating systems and accessories; and any equipment designed to make accessible the environment of a classroom to a student, who is physically unable to attend classroom activities due to hospitalization or other circumstances, by allowing real-time interaction with other students both one-on-one and in group discussion.

(M) To purchase mobile units to be used for the provision of services pursuant to divisions (E), (F), (G), and (I) of this section and to pay for necessary repairs and operating costs associated with these units.

(N) To reimburse costs the district incurred to store the records of a chartered nonpublic school that closes. Reimbursements under this division shall be made one time only for each chartered nonpublic school described in division (E)(1) of section 3317.024 of the Revised Code that closes.

(O) To purchase life-saving medical or other emergency equipment for placement in nonpublic schools within the district described in division (E)(1) of section 3317.024 of the Revised Code or to maintain such equipment.

(P) To procure and pay for security services from a county sheriff or a township or municipal police force or from a person certified through the Ohio peace officer training commission, in accordance with section 109.78 of the Revised Code, as a special police, security guard, or as a privately employed person serving in a police capacity for nonpublic schools in the district described in division (E)(1) of section 3317.024 of the Revised Code.

(Q) To provide language and academic support services and other accommodations for

English language learners attending nonpublic schools within the district described in division (E)(1) of section 3317.024 of the Revised Code.

Clerical and supervisory personnel hired pursuant to division (J) of this section shall perform their services in the public schools, in nonpublic schools, public centers, or mobile units where the services are provided to the nonpublic school pupil, except that such personnel may accompany pupils to and from the service sites when necessary to ensure the safety of the children receiving the services.

All services provided pursuant to this section may be provided under contract with educational service centers, the department of health, city or general health districts, or private agencies whose personnel are properly licensed by an appropriate state board or agency.

Transportation of pupils provided pursuant to divisions (E), (F), (G), and (I) of this section shall be provided by the school district from its general funds and not from moneys paid to it under division (E)(1) of section 3317.024 of the Revised Code unless a special transportation request is submitted by the parent of the child receiving service pursuant to such divisions. If such an application is presented to the school district, it may pay for the transportation from moneys paid to it under division (E)(1) of section 3317.024 of the Revised Code.

No school district shall provide health or remedial services to nonpublic school pupils as authorized by this section unless such services are available to pupils attending the public schools within the district.

Materials, equipment, computer hardware or software, textbooks, digital texts, and health and remedial services provided for the benefit of nonpublic school pupils pursuant to this section and the admission of pupils to such nonpublic schools shall be provided without distinction as to race, creed, color, or national origin of such pupils or of their teachers.

No school district shall provide services, materials, or equipment that contain religious content for use in religious courses, devotional exercises, religious training, or any other religious activity.

As used in this section, "parent" includes a person standing in loco parentis to a child.

Notwithstanding section 3317.01 of the Revised Code, payments shall be made under this section to any city, local, or exempted village school district within which is located one or more nonpublic elementary or high schools described in division (E)(1) of section 3317.024 of the Revised Code and any payments made to school districts under division (E)(1) of section 3317.024 of the Revised Code for purposes of this section may be disbursed without submission to and approval of the controlling board.

The allocation of payments for materials, equipment, textbooks, digital texts, health services, and remedial services to city, local, and exempted village school districts shall be on the basis of the state board of education's estimated annual average daily membership in nonpublic elementary and high schools located in the district described in division (E)(1) of section 3317.024 of the Revised Code.

Payments made to city, local, and exempted village school districts under this section shall be equal to specific appropriations made for the purpose. All interest earned by a school district on such payments shall be used by the district for the same purposes and in the same manner as the payments may be used.

The department of education shall adopt guidelines and procedures under which such programs and services shall be provided, under which districts shall be reimbursed for administrative costs incurred in providing such programs and services, and under which any unexpended balance of the amounts appropriated by the general assembly to implement this section may be transferred to the auxiliary services personnel unemployment compensation fund established pursuant to section 4141.47 of the Revised Code. The department shall also adopt guidelines and procedures limiting the purchase and loan of the items described in division (K) of this section to items that are in general use in the public schools of the state, that are incapable of diversion to religious use, and that are susceptible to individual use rather than classroom use. Within thirty days after the end of each biennium, each board of education shall remit to the department all moneys paid to it under division (E)(1) of section 3317.024 of the Revised Code and any interest earned on those moneys that are not required to pay expenses incurred under this section during the biennium for which the money was appropriated and during which the interest was earned. If a board of education subsequently determines that the remittal of moneys leaves the board with insufficient money to pay all valid expenses incurred under this section during the biennium for which the remitted money was appropriated, the board may apply to the department of education for a refund of money, not to exceed the amount of the insufficiency. If the department determines the expenses were lawfully incurred and would have been lawful expenditures of the refunded money, it shall certify its determination and the amount of the refund to be made to the director of job and family services who shall make a refund as provided in section 4141.47 of the Revised Code.

Each school district shall label materials, equipment, computer hardware or software, textbooks, and digital texts purchased or leased for loan to a nonpublic school under this section, acknowledging that they were purchased or leased with state funds under this section. However, a district need not label materials, equipment, computer hardware or software, textbooks, or digital texts that the district determines are consumable in nature or have a value of less than two hundred dollars.

**Sec. 3317.16.** (A) The department of education shall compute and distribute state core foundation funding to each joint vocational school district for the fiscal year as prescribed in the following divisions:

(1) An opportunity grant calculated according to the following formula:

(The formula amount X formula ADM) - (0.0005 X the district's three-year average valuation)

However, no district shall receive an opportunity grant that is less than 0.05 times the formula amount times formula ADM.

(2) Additional state aid for special education and related services provided under Chapter 3323. of the Revised Code calculated as the sum of the following:

(a) The district's category one special education ADM X the amount specified in division (A) of section 3317.013 of the Revised Code X the district's state share percentage;

(b) The district's category two special education ADM X the amount specified in division (B) of section 3317.013 of the Revised Code X the district's state share percentage;

(c) The district's category three special education ADM X the amount specified in division (C) of section 3317.013 of the Revised Code X the district's state share percentage;

(d) The district's category four special education ADM X the amount specified in division (D)

of section 3317.013 of the Revised Code X the district's state share percentage;

(e) The district's category five special education ADM X the amount specified in division (E) of section 3317.013 of the Revised Code X the district's state share percentage;

(f) The district's category six special education ADM X the amount specified in division (F) of section 3317.013 of the Revised Code X the district's state share percentage.

(3) Economically disadvantaged funds calculated according to the following formula:

$\$272 \times \text{the district's economically disadvantaged index} \times \text{the number of students who are economically disadvantaged as certified under division (D)(2)(p) of section 3317.03 of the Revised Code}$

(4) Limited English proficiency funds calculated as the sum of the following:

(a) The district's category one limited English proficient ADM X the amount specified in division (A) of section 3317.016 of the Revised Code X the district's state share percentage;

(b) The district's category two limited English proficient ADM X the amount specified in division (B) of section 3317.016 of the Revised Code X the district's state share percentage;

(c) The district's category three limited English proficient ADM X the amount specified in division (C) of section 3317.016 of the Revised Code X the district's state share percentage;

(5) Career-technical education funds calculated as the sum of the following:

(a) The district's category one career-technical education ADM X the amount specified in division (A) of section 3317.014 of the Revised Code X the district's state share percentage;

(b) The district's category two career-technical education ADM X the amount specified in division (B) of section 3317.014 of the Revised Code X the district's state share percentage;

(c) The district's category three career-technical education ADM X the amount specified in division (C) of section 3317.014 of the Revised Code X the district's state share percentage;

(d) The district's category four career-technical education ADM X the amount specified in division (D) of section 3317.014 of the Revised Code X the district's state share percentage;

(e) The district's category five career-technical education ADM X the amount specified in division (E) of section 3317.014 of the Revised Code X the district's state share percentage.

Payment of funds under division (A)(5) of this section is subject to approval under section 3317.161 of the Revised Code.

(6) Career-technical education associated services funds calculated under the following formula:

$\text{The district's state share percentage} \times \text{the amount for career-technical education associated services specified in section 3317.014 of the Revised Code} \times \text{the sum of categories one through five career-technical education ADM}$

(7) A graduation bonus calculated according to the following formula:

$\text{The district's graduation rate as reported on its most recent report card issued by the department under section 3302.033 of the Revised Code} \times 0.075 \times \text{the formula amount} \times \text{the number of the district's students who received high school or honors high school diplomas as reported by the district to the department, in accordance with the guidelines adopted under section 3301.0714 of the Revised Code}$

Code, for the same school year for which the most recent report card was issued X the district's state share percentage

(B)(1) If a joint vocational school district's costs for a fiscal year for a student in its categories two through six special education ADM exceed the threshold catastrophic cost for serving the student, as specified in division (B) of section 3317.0214 of the Revised Code, the district may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all of its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the district an amount equal to the sum of the following:

(a) One-half of the district's costs for the student in excess of the threshold catastrophic cost;

(b) The product of one-half of the district's costs for the student in excess of the threshold catastrophic cost multiplied by the district's state share percentage.

(2) The district shall report under division (B)(1) of this section, and the department shall pay for, only the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(C)(1) For each student with a disability receiving special education and related services under an individualized education program, as defined in section 3323.01 of the Revised Code, at a joint vocational school district, the resident district or, if the student is enrolled in a community school, the community school shall be responsible for the amount of any costs of providing those special education and related services to that student that exceed the sum of the amount calculated for those services attributable to that student under division (A) of this section.

Those excess costs shall be calculated using a formula approved by the department.

(2) The board of education of the joint vocational school district may report the excess costs calculated under division (C)(1) of this section to the department of education.

(3) If the board of education of the joint vocational school district reports excess costs under division (C)(2) of this section, the department shall pay the amount of excess cost calculated under division (C)(2) of this section to the joint vocational school district and shall deduct that amount as provided in division (C)(3)(a) or (b) of this section, as applicable:

(a) If the student is not enrolled in a community school, the department shall deduct the amount from the account of the student's resident district pursuant to division (J) of section 3317.023 of the Revised Code.

(b) If the student is enrolled in a community school, the department shall deduct the amount from the account of the community school pursuant to section 3314.083 of the Revised Code.

(D)(1) In any fiscal year, a school district receiving funds under division (A)(5) of this section shall spend those funds only for the purposes that the department designates as approved for career-technical education expenses. Career-technical education expenses approved by the department shall include only expenses connected to the delivery of career-technical programming to career-technical students. The department shall require the school district to report data annually so that the department may monitor the district's compliance with the requirements regarding the manner in which funding received under division (A)(5) of this section may be spent.

(2) All funds received under division (A)(5) of this section shall be spent in the following manner:

(a) At least seventy-five per cent of the funds shall be spent on curriculum development, purchase, and implementation; instructional resources and supplies; industry-based program certification; student assessment, credentialing, and placement; curriculum specific equipment purchases and leases; career-technical student organization fees and expenses; home and agency linkages; work-based learning experiences; professional development; and other costs directly associated with career-technical education programs including development of new programs.

(b) Not more than twenty-five per cent of the funds shall be used for personnel expenditures.

(E) In any fiscal year, a school district receiving funds under division (A)(6) of this section, or through a transfer of funds pursuant to division (I) of section 3317.023 of the Revised Code, shall spend those funds only for the purposes that the department designates as approved for career-technical education associated services expenses, which may include such purposes as apprenticeship coordinators, coordinators for other career-technical education services, career-technical evaluation, and other purposes designated by the department. The department may deny payment under division (A)(6) of this section to any district that the department determines is not operating those services or is using funds paid under division (A)(6) of this section, or through a transfer of funds pursuant to division (I) of section 3317.023 of the Revised Code, for other purposes.

(F) A joint vocational school district shall spend the funds it receives under division (A)(3) of this section in accordance with section 3317.25 of the Revised Code.

(G) As used in this section:

(1) "Community school" means a community school established under Chapter 3314. of the Revised Code.

(2) "Resident district" means the city, local, or exempted village school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(3) "State share percentage" is equal to the following:

The amount computed under division (A)(1) of this section / (the formula amount X formula ADM)

**Sec. 3317.161.** (A) As used in this section, "lead district" has the same meaning as in section 3317.023 of the Revised Code.

(B)(1) A career-technical education program of a city, local, or exempted village school district, community school, or STEM school shall be subject to approval under this section in order for the district or school to qualify for state funding for the program. Approval granted under this section shall be valid for the five fiscal years following the fiscal year in which the program is approved and may be renewed. Approval shall be subject to annual review under division (E) of this section.

(2) If a district or school becomes a new member of a career-technical planning district, its career-technical education programs shall be approved or disapproved by the lead district of the career-technical planning district during the fiscal year in which the district or school becomes a member of the career-technical planning district. Any program of the district or school that was approved by the department of education for an approval period that includes the fiscal year in which the district or school becomes a new member of the career-technical planning district shall retain its approved status during that fiscal year.

(3) If an existing member of a career-technical planning district develops a new career-technical education program, that program shall be approved or disapproved by the lead district of the career-technical planning district prior to the first fiscal year for which the district or school is seeking funding for the program.

(4) Except as provided in division (B)(2) of this section, if a career-technical education program was approved by the department prior to September 29, 2013, that approval remains valid for the unexpired remainder of the approval period specified by the department. Approval of that program may then be renewed in accordance with this section on a date prior to the expiration of the approval period.

(C)(1) The lead district of a career-technical planning district shall approve or disapprove for a five-year period each career-technical education program of the city, local, and exempted village school districts, community schools, and STEM schools that are assigned by the department to the career-technical planning district. The lead district's decision to approve or disapprove a program shall be based on requirements for career-technical education programs that are specified in rules adopted by the department. These requirements shall include, but are not limited to, all of the following:

- (a) Demand for the career-technical education program by industries in the state;
- (b) Quality of the program;
- (c) Potential for a student enrolled in the program to receive the training that will qualify the student for industry credentials or post-secondary education;
- (d) Admission requirements of the lead district;
- (e) Past performance of the district or school that is offering the program;
- (f) Traveling distance;
- (g) Sustainability;
- (h) Capacity;
- (i) Availability of the program within the career-technical planning district;
- (j) In the case of a new program, the cost to begin the program.

(2) The lead district shall approve or disapprove each program not later than the first day of March prior to the first fiscal year for which the district or school is seeking funding for the program. If a program is approved, the lead district shall notify the department of its decision. If a program is disapproved, the lead district shall notify the district or school of its decision.

If the lead district disapproves the program or does not take any action to approve or disapprove the program by the first day of March, the district or school may appeal the lead district's decision or failure to take action to the department by the fifteenth day of March.

(D)(1) Upon receiving notification of a lead district's approval of a district's or school's career-technical education program, the department shall review the lead district's decision and determine whether to approve or disapprove the program not later than the fifteenth day of May prior to the first fiscal year for which the district or school is seeking funding for the program. The department shall notify the district or school and the lead district of the district's or school's career-technical planning district of its determination.

(2) Upon receiving an appeal from a district or school of a lead district's disapproval of a career-technical education program or failure to take action to approve or disapprove the program,

the department shall review the lead district's disapproval or failure to take action. The department shall decide whether to approve or disapprove the program as a result of this review not later than the fifteenth day of May prior to the first fiscal year for which the district or school is seeking funding for the program. The department shall notify the lead district and the appealing district or school of its determination.

(3) In conducting a review under division (D)(1) or (2) of this section, the department shall consider the criteria prescribed under division (C)(1) of this section.

(4) If the department approves a program under division (D)(1) or (2) of this section, it shall authorize the payment to the district, or the deduction from the state education aid of a district and payment to a community school or STEM school, of the funds attributed to the career-technical students enrolled in that program in the next fiscal year according to a payment schedule prescribed by the department.

(5) The department's decisions under divisions (D)(1) and (2) of this section shall be final and not appealable.

(6) The superintendent of public instruction may adopt guidelines identifying circumstances in which the department may, after consulting with a lead district, approve or disapprove a program that has been approved or disapproved by the lead district after the deadline prescribed in division (D)(1) or (2) of this section has passed.

(E) The department and the lead district of each career-technical planning district shall conduct an annual review of each career-technical education program in the lead district's career-technical planning district that receives approval under this section. Continued funding of the program during the five-year approval period shall be subject to the school's compliance with any directives for performance improvement that are issued by the department or the lead district as a result of any review conducted under this section.

**Sec. 3317.23.** (A) For purposes of this section:

(1) "Competency-based educational program" means any system of academic instruction, assessment, grading, and reporting where students receive credit based on demonstrations and assessments of their learning rather than the amount of time they spend studying a subject. A competency-based educational program shall encourage accelerated learning among students who master academic materials quickly while providing additional instructional support time for students who need it.

(2) An "eligible individual" is an individual who satisfies both of the following criteria:

(a) The individual is at least twenty-two years of age.

(b) The individual has not been awarded a high school diploma or a certificate of high school equivalence as defined in section 4109.06 of the Revised Code.

(B) An eligible individual may enroll in a city, local, or exempted village school district that operates a dropout prevention and recovery program for up to two consecutive school years for the purpose of earning a high school diploma. An individual enrolled under this division may elect to satisfy the requirements to earn a high school diploma by successfully completing a competency-based educational program that complies with the standards adopted by the department of education under section 3317.231 of the Revised Code. The district shall report that individual's enrollment on a full-time equivalency basis under division (A) of section 3317.036 of the Revised Code and shall



not report that individual's enrollment under section 3317.03 of the Revised Code. An individual enrolled under this division shall not be assigned to classes or settings with students who are younger than eighteen years of age.

(C)(1) For each district that enrolls individuals under division (B) of this section, the department annually shall certify the enrollment and attendance, on a full-time equivalency basis, of each individual reported by the district under division (A) of section 3317.036 of the Revised Code.

(2) For each individual enrolled in a district under division (B) of this section, the department annually shall pay the district up to \$5,000, as determined by the department based on the extent of the individual's successful completion of the graduation requirements prescribed under sections 3313.603, 3313.61, 3313.611, and 3313.614 of the Revised Code.

(D) A district that enrolls individuals under division (B) of this section shall be subject to the program administration standards adopted by the department under section 3317.231 of the Revised Code, as applicable.

**Sec. 3317.231.** The department of education shall adopt rules regarding the administration of programs that enroll individuals who are at least twenty-two years of age under sections 3314.38, 3317.23, 3317.24, and 3345.86 of the Revised Code, including data collection, the reporting and certification of enrollment in the programs, the measurement of the academic performance of individuals enrolled in the programs, and the standards for competency-based educational programs, as defined in section 3317.23 of the Revised Code.

**Sec. 3317.24.** (A) For purposes of this section, "competency-based educational program" and "eligible individual" have the same meanings as in section 3317.23 of the Revised Code.

(B) An eligible individual may enroll in a joint vocational school district that operates an adult education program for up to two cumulative school years for the purpose of completing the requirements to earn a high school diploma. An individual enrolled under this division may elect to satisfy these requirements by successfully completing a competency-based educational program that complies with the standards adopted by the department of education under section 3317.231 of the Revised Code. The district shall report an individual's enrollment under this division on a full-time equivalency basis under division (B) of section 3317.036 of the Revised Code and shall not report that individual's enrollment under section 3317.03 of the Revised Code. An individual enrolled under this division shall not be assigned to classes or settings with students who are younger than eighteen years of age.

(C)(1) For each joint vocational school district that enrolls individuals under division (B) of this section, the department annually shall certify the enrollment and attendance, on a full-time equivalency basis, of each individual reported by the district under division (B) of section 3317.036 of the Revised Code.

(2) For each individual enrolled in a joint vocational school district under division (B) of this section, the department annually shall pay the district up to \$5,000, as determined by the department based on the extent of the individual's successful completion of the graduation requirements prescribed under sections 3313.603, 3313.61, 3313.611, and 3313.614 of the Revised Code.

(D) If an individual enrolled in a joint vocational school district under division (B) of this section completes the requirements to earn a high school diploma, the joint vocational school district shall certify the completion of those requirements to the city, local, or exempted village school

district in which the individual resides. Upon receiving certification under this division, the city, local, or exempted village school district in which the individual resides shall issue a high school diploma to the individual within sixty days of receiving the certification.

(E) A joint vocational school district that enrolls individuals under division (B) of this section shall be subject to the program administration standards adopted by the department under section 3317.231 of the Revised Code, as applicable.

**Sec. 3317.26.**

**Sec. 3318.02.** (A) For purposes of sections 3318.01 to 3318.20 of the Revised Code, the Ohio facilities construction commission shall periodically perform an assessment of the classroom facility needs in the state to identify school districts in need of additional classroom facilities, or replacement or reconstruction of existent classroom facilities, and the cost to each such district of constructing or acquiring such additional facilities or making such renovations.

(B) Based upon the most recent assessment conducted pursuant to division (A) of this section, the commission shall conduct on-site visits to school districts identified as having classroom facility needs to confirm the findings of the periodic assessment and further evaluate the classroom facility needs of the district. The evaluation shall assess the district's need to construct or acquire new classroom facilities and may include an assessment of the district's need for building additions or for the reconstruction of existent buildings in lieu of constructing or acquiring replacement buildings.

(C)(1) Except as provided in division (C)(2) of this section, on-site visits performed on or after May 20, 1997, shall be performed in the order specified in this division. The first round of on-site visits first succeeding the effective date of this amendment, May 20, 1997, shall be limited to the school districts in the first through fifth percentiles, excluding districts that are ineligible for funding under this chapter pursuant to section 3318.04 of the Revised Code. The second round of on-site visits shall be limited to the school districts in the first through tenth percentiles, excluding districts that are ineligible for funding under this chapter pursuant to section 3318.04 of the Revised Code. Each succeeding round of on-site visits shall be limited to the percentiles included in the immediately preceding round of on-site visits plus the next five percentiles. Except for the first round of on-site visits, no round of on-site visits shall commence unless eighty per cent of the districts for which on-site visits were performed during the immediately preceding round, have had projects approved under section 3318.04 of the Revised Code.

(2) Notwithstanding division (C)(1) of this section, the commission may perform on-site visits for school districts in the next highest percentile to the percentiles included in the current round of on-site visits, and then to succeeding percentiles one at a time, not to exceed the twenty-fifth percentile, if all of the following apply:

(a) Less than eighty per cent of the districts for which on-site visits were performed in the current round, and in any percentiles for which on-site visits were performed in addition to the current round pursuant to this division, have had projects approved under section 3318.04 of the Revised Code;

(b) There are funds appropriated for the purpose of sections 3318.01 to 3318.20 of the Revised Code that are not reserved and encumbered for projects pursuant to section 3318.04 of the Revised Code;

(c) The commission makes a finding that such available funds would be more thoroughly

utilized if on-site visits were extended to the next highest percentile.

(D) Notwithstanding divisions (B) and (C) of this section, in any fiscal year, the commission may limit the number of districts for which it conducts on-site visits based upon its projections of the moneys available and moneys necessary to undertake projects under sections 3318.01 to 3318.20 of the Revised Code for that year.

**Sec. 3318.024.** In the first year of a capital biennium, any funds appropriated to the Ohio facilities construction commission for classroom facilities projects under this chapter in the previous capital biennium that were not spent or encumbered, or for which an encumbrance has been canceled under section 3318.05 of the Revised Code, shall be used by the commission only for projects under sections 3318.01 to 3318.20 of the Revised Code, subject to appropriation by the general assembly.

In the second year of a capital biennium, any funds appropriated to the Ohio facilities construction commission for classroom facilities projects under this chapter that were not spent or encumbered in the first year of the biennium and which are in excess of an amount equal to half of the appropriations for the capital biennium, or for which an encumbrance has been canceled under section 3318.05 of the Revised Code, shall be used by the commission only for projects under sections 3318.01 to 3318.20, 3318.351, 3318.364, 3318.37, 3318.371, 3318.38, and 3318.40 to 3318.46 of the Revised Code, subject to appropriation by the general assembly.

**Sec. 3318.054.** (A) If conditional approval of a city, exempted village, or local school district's project lapses as provided in section 3318.05 of the Revised Code, or if conditional approval of a joint vocational school district's project lapses as provided in division (D) of section 3318.41 of the Revised Code, because the district's electors have not approved the ballot measures necessary to generate the district's portion of the basic project cost, and if the district board desires to seek a new conditional approval of the project, the district board shall request that the Ohio facilities construction commission set the scope, basic project cost, and school district portion of the basic project cost prior to resubmitting the ballot measures to the electors. To do so, the commission shall use the district's current assessed tax valuation and the district's percentile for the prior fiscal year. For a district that has entered into an agreement under section 3318.36 of the Revised Code and desires to proceed with a project under sections 3318.01 to 3318.20 of the Revised Code, the district's portion of the basic project cost shall be the percentage specified in that agreement. The project scope and basic costs established under this division shall be valid for thirteen months from the date the commission approves them.

(B) Upon the commission's approval under division (A) of this section, the district board may submit the ballot measures to the district's electors for approval of the project based on the new project scope and estimated costs. Upon electoral approval of those measures, the district shall be given first priority for project funding as such funds become available.

(C) When the commission determines that funds are available for the district's project, the commission shall do all of the following:

(1) Determine the school district portion of the basic project cost under section 3318.032 of the Revised Code, in the case of a city, exempted village, or local school district, or under section 3318.42 of the Revised Code, in the case of a joint vocational school district;

(2) Conditionally approve the project and submit it to the controlling board for approval pursuant to section 3318.04 of the Revised Code;

(3) Encumber funds for the project under section 3318.11 of the Revised Code;

(4) Enter into an agreement with the district board under section 3318.08 of the Revised Code.

**Sec. 3318.30.** (A) There is hereby created the Ohio school facilities commission as an independent agency of the state within the Ohio facilities construction commission, which is created under section 123.20 of the Revised Code. The Ohio school facilities commission shall administer the provision of financial assistance to school districts for the acquisition or construction of classroom facilities in accordance with sections 3318.01 to 3318.33 of the Revised Code.

The Ohio school facilities commission is a body corporate and politic, an agency of state government and an instrumentality of the state, performing essential governmental functions of this state. The carrying out of the purposes and the exercise by the Ohio school facilities commission of its powers conferred by sections 3318.01 to 3318.33 of the Revised Code are essential public functions and public purposes of the state. The Ohio school facilities commission may, in its own name, sue and be sued, enter into contracts, and perform all the powers and duties given to it by sections 3318.01 to 3318.33 of the Revised Code, but it does not have and shall not exercise the power of eminent domain. In its discretion and as it determines appropriate, the Ohio school facilities commission may delegate to any of its members, executive director, or other employees any of the Ohio school facilities commission's powers and duties to carry out its functions.

(B) The Ohio school facilities commission shall consist of seven members, three of whom are voting members. The voting members of the Ohio school facilities commission shall be the director of the office of budget and management, the director of administrative services, and the superintendent of public instruction, or their designees. Of the nonvoting members, two shall be members of the senate appointed by the president of the senate, and two shall be members of the house of representatives appointed by the speaker of the house. Each of the appointees of the president, and each of the appointees of the speaker, shall be members of different political parties.

Nonvoting members shall serve as members of the Ohio school facilities commission during the legislative biennium for which they are appointed, except that any such member who ceases to be a member of the legislative house from which the member was appointed shall cease to be a member of the Ohio school facilities commission. Each nonvoting member shall be appointed within thirty-one days of the end of the term of that member's predecessor. Such members may be reappointed. Vacancies of nonvoting members shall be filled in the manner provided for original appointments.

Members of the Ohio school facilities commission shall serve without compensation.

After the initial nonvoting members of the Ohio school facilities commission have been appointed, the Ohio school facilities commission shall meet and organize by electing voting members as the chairperson and vice-chairperson of the Ohio school facilities commission, who shall hold their offices until the next organizational meeting of the Ohio school facilities commission. Organizational meetings of the Ohio school facilities commission shall be held at the first meeting of each calendar year. At each organizational meeting, the Ohio school facilities commission shall elect from among its voting members a chairperson and vice-chairperson, who shall serve until the next annual organizational meeting. The Ohio school facilities commission shall adopt rules pursuant to section 111.15 of the Revised Code for the conduct of its internal business and shall keep a journal of its proceedings. Including the organizational meeting, the Ohio school facilities commission shall

meet at least once each calendar quarter.

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

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

(D) The Ohio school facilities commission shall be exempt from the requirements of sections 101.82 to 101.87 of the Revised Code.

(E) The Ohio school facilities commission may share employees and facilities with the Ohio facilities construction commission.

**Sec. 3318.40.** (A)(1) Sections 3318.40 to 3318.45 of the Revised Code apply only to joint vocational school districts.

(2) As used in sections 3318.40 to 3318.45 of the Revised Code:

(a) "Ohio facilities construction commission," "classroom facilities," "project," and "basic project cost" have the same meanings as in section 3318.01 of the Revised Code.

(b) "Acquisition of classroom facilities" means constructing, reconstructing, repairing, or making additions to classroom facilities.

(B) There is hereby established the vocational school facilities assistance program. Under the program, the Ohio facilities construction commission shall provide assistance to joint vocational school districts for the acquisition of classroom facilities suitable to the vocational education programs of the districts in accordance with sections 3318.40 to 3318.45 of the Revised Code. For purposes of the program, beginning July 1, 2003, the commission annually may set aside up to two per cent of the aggregate amount appropriated to it for classroom facilities assistance projects in the public school building fund, established under section 3318.15 of the Revised Code, and the school building program assistance fund, established under section 3318.25 of the Revised Code.

(C) The commission shall not provide assistance for any distinct part of a project under sections 3318.40 to 3318.45 of the Revised Code that when completed will be used exclusively for an adult education program or exclusively for operation of a driver training school for instruction leading to the issuance of a commercial driver's license under Chapter 4506. of the Revised Code, except for life safety items and basic building components necessary for complete and continuous construction or renovation of a classroom facility as determined by the commission.

(D) The commission shall not provide assistance under sections 3318.40 to 3318.45 of the Revised Code to acquire classroom facilities for vocational educational instruction at a location under the control of a school district that is a member of a joint vocational school district. Any assistance to acquire classroom facilities for vocational educational instruction at such location shall be provided to the school district that is a member of the joint vocational school district through other provisions of this chapter when that member school district is eligible for assistance under those provisions.

(E) By September 1, 2003, the commission shall assess the classroom facilities needs of at

least five joint vocational school districts, according to the order of priority prescribed in division (B) of section 3318.42 of the Revised Code, and based on the results of those assessments shall determine the extent to which amendments to the specifications adopted under section 3318.311 of the Revised Code are warranted. The commission, thereafter, may amend the specifications as provided in that section.

(F) After the commission has conducted the assessments prescribed in division (E) of this section, the commission shall establish, by rule adopted in accordance with section 111.15 of the Revised Code, guidelines for the commission to use in deciding whether to waive compliance with the design specifications adopted under section 3318.311 of the Revised Code when determining the number of facilities and the basic project cost of projects as prescribed in division (A)(1)(a) of section 3318.41 of the Revised Code. The guidelines shall address the following situations:

(1) Under what circumstances, if any, particular classroom facilities are adequate to meet the needs of the school district even though the facilities do not comply with the specifications adopted under section 3318.311 of the Revised Code;

(2) Under what circumstances, if any, particular classroom facilities will be renovated or repaired rather than replaced by construction of new facilities.

**Sec. 3318.71.**

**Sec. 3319.113.**

**Sec. 3319.114.** (A) Beginning with the 2014-2015 school year, a district or school may choose to use the alternative framework prescribed by divisions (B) and (C) of this section when evaluating teachers under section 3319.111 of the Revised Code.

(B) If a district or school chooses to use the alternative framework for the 2014-2015 school year, that district or school shall calculate ratings assigned for teacher evaluations according to the following:

(1) The teacher performance measure, as defined by the department of education, shall account for forty-two and one-half per cent of each rating.

(2) The student academic growth measure, as defined by the department, shall account for forty-two and one-half per cent of each rating.

(3) Only one of the following components shall account for fifteen per cent of each rating:

(a) Student surveys;

(b) Teacher self-evaluations;

(c) Peer review evaluations;

(d) Student portfolios.

(C) If a district or school chooses to use the alternative framework for the 2015-2016 school year or any school year thereafter, that district or school shall calculate ratings assigned for teacher evaluations according to the following:

(1) The teacher performance measure, as defined by the department, shall account for fifty per cent of each rating.

(2) The student academic growth measure, as defined by the department, shall account for thirty-five per cent of each rating.

(3) The remainder shall be one, or any combination, of the following components:

(a) Student surveys;

- (b) Teacher self-evaluations;
- (c) Peer review evaluations;
- (d) Student portfolios;
- (e) Any other component determined appropriate by the district board or school governing authority.

(D) The department shall compile a list of approved instruments that districts and schools may use, beginning with the 2014-2015 school year, when evaluating the components described under divisions (B)(3) and (C)(3) of this section.

**Sec. 3319.22.** (A)(1) The state board of education shall issue the following educator licenses:

(a) A resident educator license, which shall be valid for four years and shall be renewable for reasons specified by rules adopted by the state board pursuant to division (A)(3) of this section. The state board, on a case-by-case basis, may extend the license's duration as necessary to enable the license holder to complete the Ohio teacher residency program established under section 3319.223 of the Revised Code;

(b) A professional educator license, which shall be valid for five years and shall be renewable;

(c) A senior professional educator license, which shall be valid for five years and shall be renewable;

(d) A lead professional educator license, which shall be valid for five years and shall be renewable.

(2) The state board may issue any additional educator licenses of categories, types, and levels the board elects to provide.

(3) The state board shall adopt rules establishing the standards and requirements for obtaining each educator license issued under this section. The rules shall also include the reasons for which a resident educator license may be renewed under division (A)(1)(a) of this section.

(B) The rules adopted under this section shall require at least the following standards and qualifications for the educator licenses described in division (A)(1) of this section:

(1) An applicant for a resident educator license shall hold at least a bachelor's degree from an accredited teacher preparation program or be a participant in the teach for America program and meet the qualifications required under section 3319.227 of the Revised Code.

(2) An applicant for a professional educator license shall:

(a) Hold at least a bachelor's degree from an institution of higher education accredited by a regional accrediting organization;

(b) Have successfully completed the Ohio teacher residency program established under section 3319.223 of the Revised Code, if the applicant's current or most recently issued license is a resident educator license issued under this section or an alternative resident educator license issued under section 3319.26 of the Revised Code.

(3) An applicant for a senior professional educator license shall:

(a) Hold at least a master's degree from an institution of higher education accredited by a regional accrediting organization;

(b) Have previously held a professional educator license issued under this section or section 3319.222 or under former section 3319.22 of the Revised Code;

(c) Meet the criteria for the accomplished or distinguished level of performance, as described in the standards for teachers adopted by the state board under section 3319.61 of the Revised Code.

(4) An applicant for a lead professional educator license shall:

(a) Hold at least a master's degree from an institution of higher education accredited by a regional accrediting organization;

(b) Have previously held a professional educator license or a senior professional educator license issued under this section or a professional educator license issued under section 3319.222 or former section 3319.22 of the Revised Code;

(c) Meet the criteria for the distinguished level of performance, as described in the standards for teachers adopted by the state board under section 3319.61 of the Revised Code;

(d) Either hold a valid certificate issued by the national board for professional teaching standards or meet the criteria for a master teacher or other criteria for a lead teacher adopted by the educator standards board under division (F)(4) or (5) of section 3319.61 of the Revised Code.

(C) The state board shall align the standards and qualifications for obtaining a principal license with the standards for principals adopted by the state board under section 3319.61 of the Revised Code.

(D) If the state board requires any examinations for educator licensure, the department of education shall provide the results of such examinations received by the department to the chancellor of higher education, in the manner and to the extent permitted by state and federal law.

(E) Any rules the state board of education adopts, amends, or rescinds for educator licenses under this section, division (D) of section 3301.07 of the Revised Code, or any other law shall be adopted, amended, or rescinded under Chapter 119. of the Revised Code except as follows:

(1) Notwithstanding division (E) of section 119.03 and division (A)(1) of section 119.04 of the Revised Code, in the case of the adoption of any rule or the amendment or rescission of any rule that necessitates institutions' offering preparation programs for educators and other school personnel that are approved by the chancellor of higher education under section 3333.048 of the Revised Code to revise the curriculum of those programs, the effective date shall not be as prescribed in division (E) of section 119.03 and division (A)(1) of section 119.04 of the Revised Code. Instead, the effective date of such rules, or the amendment or rescission of such rules, shall be the date prescribed by section 3333.048 of the Revised Code.

(2) Notwithstanding the authority to adopt, amend, or rescind emergency rules in division (G) of section 119.03 of the Revised Code, this authority shall not apply to the state board of education with regard to rules for educator licenses.

(F)(1) The rules adopted under this section establishing standards requiring additional coursework for the renewal of any educator license shall require a school district and a chartered nonpublic school to establish local professional development committees. In a nonpublic school, the chief administrative officer shall establish the committees in any manner acceptable to such officer. The committees established under this division shall determine whether coursework that a district or chartered nonpublic school teacher proposes to complete meets the requirement of the rules. The department of education shall provide technical assistance and support to committees as the committees incorporate the professional development standards adopted by the state board of education pursuant to section 3319.61 of the Revised Code into their review of coursework that is



appropriate for license renewal. The rules shall establish a procedure by which a teacher may appeal the decision of a local professional development committee.

(2) In any school district in which there is no exclusive representative established under Chapter 4117. of the Revised Code, the professional development committees shall be established as described in division (F)(2) of this section.

Not later than the effective date of the rules adopted under this section, the board of education of each school district shall establish the structure for one or more local professional development committees to be operated by such school district. The committee structure so established by a district board shall remain in effect unless within thirty days prior to an anniversary of the date upon which the current committee structure was established, the board provides notice to all affected district employees that the committee structure is to be modified. Professional development committees may have a district-level or building-level scope of operations, and may be established with regard to particular grade or age levels for which an educator license is designated.

Each professional development committee shall consist of at least three classroom teachers employed by the district, one principal employed by the district, and one other employee of the district appointed by the district superintendent. For committees with a building-level scope, the teacher and principal members shall be assigned to that building, and the teacher members shall be elected by majority vote of the classroom teachers assigned to that building. For committees with a district-level scope, the teacher members shall be elected by majority vote of the classroom teachers of the district, and the principal member shall be elected by a majority vote of the principals of the district, unless there are two or fewer principals employed by the district, in which case the one or two principals employed shall serve on the committee. If a committee has a particular grade or age level scope, the teacher members shall be licensed to teach such grade or age levels, and shall be elected by majority vote of the classroom teachers holding such a license and the principal shall be elected by all principals serving in buildings where any such teachers serve. The district superintendent shall appoint a replacement to fill any vacancy that occurs on a professional development committee, except in the case of vacancies among the elected classroom teacher members, which shall be filled by vote of the remaining members of the committee so selected.

Terms of office on professional development committees shall be prescribed by the district board establishing the committees. The conduct of elections for members of professional development committees shall be prescribed by the district board establishing the committees. A professional development committee may include additional members, except that the majority of members on each such committee shall be classroom teachers employed by the district. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which a predecessor was appointed shall hold office as a member for the remainder of that term.

The initial meeting of any professional development committee, upon election and appointment of all committee members, shall be called by a member designated by the district superintendent. At this initial meeting, the committee shall select a chairperson and such other officers the committee deems necessary, and shall adopt rules for the conduct of its meetings. Thereafter, the committee shall meet at the call of the chairperson or upon the filing of a petition with the district superintendent signed by a majority of the committee members calling for the committee to meet.

(3) In the case of a school district in which an exclusive representative has been established pursuant to Chapter 4117. of the Revised Code, professional development committees shall be established in accordance with any collective bargaining agreement in effect in the district that includes provisions for such committees.

If the collective bargaining agreement does not specify a different method for the selection of teacher members of the committees, the exclusive representative of the district's teachers shall select the teacher members.

If the collective bargaining agreement does not specify a different structure for the committees, the board of education of the school district shall establish the structure, including the number of committees and the number of teacher and administrative members on each committee; the specific administrative members to be part of each committee; whether the scope of the committees will be district levels, building levels, or by type of grade or age levels for which educator licenses are designated; the lengths of terms for members; the manner of filling vacancies on the committees; and the frequency and time and place of meetings. However, in all cases, except as provided in division (F)(4) of this section, there shall be a majority of teacher members of any professional development committee, there shall be at least five total members of any professional development committee, and the exclusive representative shall designate replacement members in the case of vacancies among teacher members, unless the collective bargaining agreement specifies a different method of selecting such replacements.

(4) Whenever an administrator's coursework plan is being discussed or voted upon, the local professional development committee shall, at the request of one of its administrative members, cause a majority of the committee to consist of administrative members by reducing the number of teacher members voting on the plan.

(G)(1) The department of education, educational service centers, county boards of developmental disabilities, regional professional development centers, special education regional resource centers, college and university departments of education, head start programs, and the Ohio education computer network may establish local professional development committees to determine whether the coursework proposed by their employees who are licensed or certificated under this section or section 3319.222 of the Revised Code, or under the former version of either section as it existed prior to October 16, 2009, meet the requirements of the rules adopted under this section. They may establish local professional development committees on their own or in collaboration with a school district or other agency having authority to establish them.

Local professional development committees established by county boards of developmental disabilities shall be structured in a manner comparable to the structures prescribed for school districts in divisions (F)(2) and (3) of this section, as shall the committees established by any other entity specified in division (G)(1) of this section that provides educational services by employing or contracting for services of classroom teachers licensed or certificated under this section or section 3319.222 of the Revised Code, or under the former version of either section as it existed prior to October 16, 2009. All other entities specified in division (G)(1) of this section shall structure their committees in accordance with guidelines which shall be issued by the state board.

(2) Any public agency that is not specified in division (G)(1) of this section but provides educational services and employs or contracts for services of classroom teachers licensed or

certificated under this section or section 3319.222 of the Revised Code, or under the former version of either section as it existed prior to October 16, 2009, may establish a local professional development committee, subject to the approval of the department of education. The committee shall be structured in accordance with guidelines issued by the state board.

(H) Not later than July 1, 2016, the state board, in accordance with Chapter 119. of the Revised Code, shall adopt rules pursuant to division (A)(3) of this section that do both of the following:

(1) Exempt consistently high-performing teachers from the requirement to complete any additional coursework for the renewal of an educator license issued under this section or section 3319.26 of the Revised Code. The rules also shall specify that such teachers are exempt from any requirements prescribed by professional development committees established under divisions (F) and (G) of this section.

(2) For purposes of division (H)(1) of this section, the state board shall define the term "consistently high-performing teacher."

**Sec. 3319.223.** (A) Not later than January 1, 2011, the superintendent of public instruction and the chancellor of higher education jointly shall establish the Ohio teacher residency program, which shall be a four-year, entry-level program for classroom teachers. Except as provided in division (B) of this section, the teacher residency program shall include at least the following components:

(1) Mentoring by teachers for the first two years of the program;

(2) Counseling, as determined necessary by the school district or school, to ensure that program participants receive needed professional development;

(3) Measures of appropriate progression through the program, which shall include the performance-based assessment prescribed by the state board of education for resident educators in the third year of the program.

(B)(1) For an individual who is teaching career-technical courses under an alternative resident educator license issued under section 3319.26 of the Revised Code or rule of the state board, the Ohio teacher residency program shall include the following components:

(a) Conditions that, as of September 29, 2015, were necessary for a participant in the third and fourth year of the program to complete prior to applying for the professional educator license under division (A)(2) of section 3319.22 of the Revised Code, except as provided in division (B)(2) (b) of this section;

(b) Four years of successful teaching experience under the alternative resident educator license, as verified by the superintendent of the employing school district;

(c) Successful completion of a career-technical workforce development teacher preparation program that meets the criteria described in division (C)(1) of section 3319.229 of the Revised Code.

(2) No individual who is teaching career-technical courses under an alternative resident educator license issued under section 3319.26 of the Revised Code or rule of the state board shall be required to do either of the following:

(a) Complete the conditions of the Ohio teacher residency program that a participant, as of September 29, 2015, would have been required to complete during the participant's first and second year of teaching under an alternative resident educator license.

(b) Take the performance-based assessment prescribed by the state board for resident educators.

(C) The teacher residency program shall be aligned with the standards for teachers adopted by the state board under section 3319.61 of the Revised Code and best practices identified by the superintendent of public instruction.

(D) Each person who holds a resident educator license issued under section 3319.22 or 3319.227 of the Revised Code or an alternative resident educator license issued under section 3319.26 of the Revised Code shall participate in the teacher residency program. Successful completion of the program shall be required to qualify any such person for a professional educator license issued under section 3319.22 of the Revised Code.

**Sec. 3319.271.**

**Sec. 3319.303.** (A) The state board of education shall adopt rules establishing standards and requirements for obtaining a pupil-activity program permit for any individual who does not hold a valid educator license, certificate, or permit issued by the state board under section 3319.22, 3319.26, or 3319.27 of the Revised Code. The permit issued under this section shall be valid for coaching, supervising, or directing a pupil-activity program under section 3313.53 of the Revised Code. Subject to the provisions of section 3319.31 of the Revised Code, a permit issued under this division shall be valid for three years and shall be renewable.

(B) The state board shall adopt rules applicable to individuals who hold valid educator licenses, certificates, or permits issued by the state board under section 3319.22, 3319.26, or 3319.27 of the Revised Code setting forth standards to assure any such individual's competence to direct, supervise, or coach a pupil-activity program described in section 3313.53 of the Revised Code. The rules adopted under this division shall not be more stringent than the standards set forth in rules applicable to individuals who do not hold such licenses, certificates, or permits adopted under division (A) of this section. Subject to the provisions of section 3319.31 of the Revised Code, a permit issued to an individual under this division shall be valid for the same number of years as the individual's educator license, certificate, or permit issued under section 3319.22, 3319.26, or 3319.27 of the Revised Code and shall be renewable.

(C) As a condition to issuing or renewing a pupil-activity program permit to coach interscholastic athletics:

(1) The state board shall require each individual applying for a first permit on or after April 26, 2013, to successfully complete a training program that is specifically focused on brain trauma and brain injury management.

(2) The state board shall require each individual applying for a permit renewal on or after that date to present evidence that the individual has successfully completed, within the previous three years, a training program in recognizing the symptoms of concussions and head injuries to which the department of health has provided a link on its internet web site under section 3707.52 of the Revised Code or a training program authorized and required by an organization that regulates interscholastic athletic competition and conducts interscholastic athletic events.

**Sec. 3319.323.**

**Sec. 3319.51.** (A)(1) The state board of education shall annually establish the amount of the fees required to be paid for any license, certificate, or permit issued under this chapter or division (B)

of section 3301.071 or section 3301.074 of the Revised Code. Except as provided in division (A)(2) of this section, the amount of these fees shall be such that they, along with any appropriation made to the fund established under division (B) of this section, will be sufficient to cover the annual estimated cost of administering the requirements described under division (B) of this section.

(2) The state board shall not require any fee to be paid under division (A)(1) of this section for a license, certificate, or permit issued for the purpose of teaching in a junior reserve officer training corps (JROTC) program approved by the congress of the United States under title 10 of the United States Code.

(B) There is hereby established in the state treasury the state board of education licensure fund, which shall be used by the state board of education solely to pay the cost of administering requirements related to the issuance and renewal of licenses, certificates, and permits described in this chapter and sections 3301.071 and 3301.074 of the Revised Code. The fund shall consist of the amounts paid into the fund pursuant to division (B) of section 3301.071 and sections 3301.074 and 3319.29 of the Revised Code and any appropriations to the fund by the general assembly.

**Sec. 3319.61.** (A) The educator standards board, in consultation with the chancellor of higher education, shall do all of the following:

(1) Develop state standards for teachers and principals that reflect what teachers and principals are expected to know and be able to do at all stages of their careers. These standards shall be aligned with the statewide academic content standards for students adopted pursuant to section 3301.079 of the Revised Code, be primarily based on educator performance instead of years of experience or certain courses completed, and rely on evidence-based factors. These standards shall also be aligned with the operating standards adopted under division (D)(3) of section 3301.07 of the Revised Code.

(a) The standards for teachers shall reflect the following additional criteria:

- (i) Alignment with the interstate new teacher assessment and support consortium standards;
- (ii) Differentiation among novice, experienced, and advanced teachers;
- (iii) Reliance on competencies that can be measured;
- (iv) Reliance on content knowledge, teaching skills, discipline-specific teaching methods, and requirements for professional development;
- (v) Alignment with a career-long system of professional development and evaluation that ensures teachers receive the support and training needed to achieve the teaching standards as well as reliable feedback about how well they meet the standards;

(vi) The standards under section 3301.079 of the Revised Code, including standards on collaborative learning environments and interdisciplinary, project-based, real-world learning and differentiated instruction;

(vii) The Ohio leadership framework.

(b) The standards for principals shall be aligned with the interstate school leaders licensing consortium standards.

(2) Develop standards for school district superintendents that reflect what superintendents are expected to know and be able to do at all stages of their careers. The standards shall reflect knowledge of systems theory and effective management principles and be aligned with the buckeye association of school administrators standards and the operating standards developed under division

(D)(3) of section 3301.07 of the Revised Code.

(3) Develop standards for school district treasurers and business managers that reflect what treasurers and business managers are expected to know and be able to do at all stages of their careers. The standards shall reflect knowledge of systems theory and effective management principles and be aligned with the association of school business officials international standards and the operating standards developed under division (D)(3) of section 3301.07 of the Revised Code.

(4) Develop standards for the renewal of licenses under sections 3301.074 and 3319.22 of the Revised Code;

(5) Develop standards for educator professional development;

(6) Investigate and make recommendations for the creation, expansion, and implementation of school building and school district leadership academies;

(7) Develop standards for school counselors that reflect what school counselors are expected to know and be able to do at all stages of their careers. The standards shall reflect knowledge of academic, personal, and social counseling for students and effective principles to implement an effective school counseling program. The standards also shall reflect Ohio-specific knowledge of career counseling for students and education options that provide flexibility for earning credit, such as earning units of high school credit using the methods adopted by the state board of education under division (J) of section 3313.603 of the Revised Code and earning college credit through the college credit plus program established under Chapter 3365. of the Revised Code. The standards shall align with the American school counselor association's professional standards and the operating standards developed under division (D)(3) of section 3301.07 of the Revised Code.

The superintendent of public instruction, the chancellor of higher education, or the education standards board itself may request that the educator standards board update, review, or reconsider any standards developed under this section.

(B) The educator standards board shall incorporate indicators of cultural competency into the standards developed under division (A) of this section. For this purpose, the educator standards board shall develop a definition of cultural competency based upon content and experiences that enable educators to know, understand, and appreciate the students, families, and communities that they serve and skills for addressing cultural diversity in ways that respond equitably and appropriately to the cultural needs of individual students.

(C) In developing the standards under division (A) of this section, the educator standards board shall consider the impact of the standards on closing the achievement gap between students of different subgroups.

(D) In developing the standards under division (A) of this section, the educator standards board shall ensure both of the following:

(1) That teachers have sufficient knowledge to provide appropriate instruction for students identified as gifted pursuant to Chapter 3324. of the Revised Code and to assist in the identification of such students, and have sufficient knowledge that will enable teachers to provide learning opportunities for all children to succeed;

(2) That principals, superintendents, school treasurers, and school business managers have sufficient knowledge to provide principled, collaborative, foresighted, and data-based leadership that will provide learning opportunities for all children to succeed.

(E) The standards for educator professional development developed under division (A)(5) of this section shall include the following:

(1) Standards for the inclusion of local professional development committees established under section 3319.22 of the Revised Code in the planning and design of professional development;

(2) Standards that address the crucial link between academic achievement and mental health issues.

(F) The educator standards board shall also perform the following functions:

(1) Monitor compliance with the standards developed under division (A) of this section and make recommendations to the state board of education for appropriate corrective action if such standards are not met;

(2) Research, develop, and recommend policies on the professions of teaching and school administration;

(3) Recommend policies to close the achievement gap between students of different subgroups;

(4) Define a "master teacher" in a manner that can be used uniformly by all school districts;

(5) Adopt criteria that a candidate for a lead professional educator license under section 3319.22 of the Revised Code who does not hold a valid certificate issued by the national board for professional teaching standards must meet to be considered a lead teacher for purposes of division (B)(4)(d) of that section. It is the intent of the general assembly that the educator standards board shall adopt multiple, equal-weighted criteria to use in determining whether a person is a lead teacher. The criteria shall be in addition to the other standards and qualifications prescribed in division (B)(4) of section 3319.22 of the Revised Code. The criteria may include, but shall not be limited to, completion of educational levels beyond a master's degree or other professional development courses or demonstration of a leadership role in the teacher's school building or district. The board shall determine the number of criteria that a teacher shall satisfy to be recognized as a lead teacher, which shall not be the total number of criteria adopted by the board.

(6) Develop model teacher and principal evaluation instruments and processes. The models shall be based on the standards developed under division (A) of this section.

(7) Develop a method of measuring the academic improvement made by individual students during a one-year period and make recommendations for incorporating the measurement as one of multiple evaluation criteria into each of the following:

(a) Eligibility for a professional educator license, senior professional educator license, lead professional educator license, or principal license issued under section 3319.22 of the Revised Code;

(b) The Ohio teacher residency program established under section 3319.223 of the Revised Code;

(c) The model teacher and principal evaluation instruments and processes developed under division (F)(6) of this section.

(G) The educator standards board shall submit recommendations of standards developed under division (A) of this section to the state board of education not later than September 1, 2010. The state board of education shall review those recommendations at the state board's regular meeting that next succeeds the date that the recommendations are submitted to the state board. At that meeting, the state board of education shall vote to either adopt standards based on those

recommendations or request that the educator standards board reconsider its recommendations. The state board of education shall articulate reasons for requesting reconsideration of the recommendations but shall not direct the content of the recommendations. The educator standards board shall reconsider its recommendations if the state board of education so requests, may revise the recommendations, and shall resubmit the recommendations, whether revised or not, to the state board not later than two weeks prior to the state board's regular meeting that next succeeds the meeting at which the state board requested reconsideration of the initial recommendations. The state board of education shall review the recommendations as resubmitted by the educator standards board at the state board's regular meeting that next succeeds the meeting at which the state board requested reconsideration of the initial recommendations and may adopt the standards as resubmitted or, if the resubmitted standards have not addressed the state board's concerns, the state board may modify the standards prior to adopting them. The final responsibility to determine whether to adopt standards as described in division (A) of this section and the content of those standards, if adopted, belongs solely to the state board of education.

**Sec. 3319.67.**

**Sec. 3323.13.** (A) If a child who is a school resident of one school district receives special education from another district, the board of education of the district providing the education, subject to division (C) of this section, may require the payment by the board of education of the district of residence of a sum not to exceed one of the following, as applicable:

(1) For any child except a preschool child with a disability described in division (A)(2) of this section, the tuition of the district providing the education for a child of normal needs of the same school grade. The determination of the amount of such tuition shall be in the manner provided for by division (A) of section 3317.08 of the Revised Code.

(2) For any preschool child with a disability, the tuition of the district providing the education for the child as calculated under division (B) of section 3317.08 of the Revised Code.

(B) The board of the district of residence may contract with the board of another district for the transportation of such child into any school in such other district, on terms agreed upon by such boards. Upon direction of the state board of education, the board of the district of residence shall pay for the child's transportation and the tuition.

(C) The board of education of a district providing the education for a child shall be entitled to require payment from the district of residence under this section or section 3323.14 of the Revised Code only if the district providing the education has done at least one of the following:

(1) Invited the district of residence to send representatives to attend the meetings of the team developing the child's individualized education program;

(2) Received from the district of residence a copy of the individualized education program or a multifactored evaluation developed for the child by the district of residence;

(3) Informed the district of residence in writing that the district is providing the education for the child.

As used in division (C)(2) of this section, "multifactored evaluation" means an evaluation, conducted by a multidisciplinary team, of more than one area of the child's functioning so that no single procedure shall be the sole criterion for determining an appropriate educational program placement for the child.



**Sec. 3326.10.** Each science, technology, engineering, and mathematics school shall adopt admission procedures that specify the following:

(A)(1) Admission shall be open to individuals entitled and eligible to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code in a school district in the state.

(2)(a) Admission may be open on a tuition basis to individuals who are not residents of this state. The school shall not receive state funds under sections 3326.33 to 3326.51 of the Revised Code for any student who is not a resident of this state.

(b) The school shall charge tuition for a student who is not a resident of this state in an amount determined by the school in accordance with section 3326.101 of the Revised Code.

(B) There will be no discrimination in the admission of students to the school on the basis of race, creed, color, disability, or sex.

(C) The school will comply with all federal and state laws regarding the education of students with disabilities.

(D) Unless the school serves only students identified as gifted under Chapter 3324. of the Revised Code, the school will not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, or athletic or artistic ability.

(E) The school will assert its best effort to attract a diverse student body that reflects the community, and the school will recruit students from disadvantaged and underrepresented groups.

**Sec. 3326.101.**

**Sec. 3326.11.** Each science, technology, engineering, and mathematics school established under this chapter and its governing body shall comply with sections 9.90, 9.91, 109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 3301.0714, 3301.0715, 3301.0729, 3301.948, 3313.14, 3313.15, 3313.16, 3313.18, 3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 3313.482, 3313.50, 3313.536, 3313.539, 3313.5310, 3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.6020, 3313.6021, 3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.668, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.7112, 3313.721, 3313.80, 3313.801, 3313.814, 3313.816, 3313.817, 3313.86, 3313.89, 3313.96, 3319.073, 3319.21, 3319.32, 3319.321, 3319.35, 3319.39, 3319.391, 3319.41, 3319.45, 3319.46, 3321.01, 3321.041, 3321.05, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 102., 117., 1347., 2744., 3307., 3309., 3365., 3742., 4112., 4123., 4141., and 4167. of the Revised Code as if it were a school district.

**Sec. 3326.32.** Each science, technology, engineering, and mathematics school shall report to the department of education, in the form and manner required by the department, all of the following information:

(A) The total number of students enrolled in the school who are residents of this state;

(B) The number of students reported under division (A) of this section who are receiving special education and related services pursuant to an IEP;

(C) For each student reported under division (B) of this section, which category specified in divisions (A) to (F) of section 3317.013 of the Revised Code applies to the student;

(D) The full-time equivalent number of students reported under division (A) of this section who are enrolled in career-technical education programs or classes described in each of divisions (A),

(B), (C), (D), and (E) of section 3317.014 of the Revised Code that are provided by the STEM school;

(E) The number of students reported under division (A) of this section who are limited English proficient students and which category specified in divisions (A) to (C) of section 3317.016 of the Revised Code applies to each student;

(F) The number of students reported under division (A) of this section who are economically disadvantaged, as defined by the department. A student shall not be categorically excluded from the number reported under division (F) of this section based on anything other than family income.

(G) The resident district of each student reported under division (A) of this section;

(H) The total number of students enrolled in the school who are not residents of this state and any additional information regarding these students that the department requires the school to report. The school shall not receive any payments under this chapter for students reported under this division.

(I) Any additional information the department determines necessary to make payments under this chapter.

**Sec. 3326.33.** For each student enrolled in a science, technology, engineering, and mathematics school established under this chapter, on a full-time equivalency basis, the department of education annually shall deduct from the state education aid of a student's resident school district and, if necessary, from the payment made to the district under sections 321.24 and 323.156 of the Revised Code and pay to the school the sum of the following:

(A) An opportunity grant in an amount equal to the formula amount;

(B) The per pupil amount of targeted assistance funds calculated under division (A) of section 3317.0217 of the Revised Code for the student's resident district, as determined by the department, X 0.25;

(C) Additional state aid for special education and related services provided under Chapter 3323. of the Revised Code as follows:

(1) If the student is a category one special education student, the amount specified in division (A) of section 3317.013 of the Revised Code;

(2) If the student is a category two special education student, the amount specified in division (B) of section 3317.013 of the Revised Code;

(3) If the student is a category three special education student, the amount specified in division (C) of section 3317.013 of the Revised Code;

(4) If the student is a category four special education student, the amount specified in division (D) of section 3317.013 of the Revised Code;

(5) If the student is a category five special education student, the amount specified in division (E) of section 3317.013 of the Revised Code;

(6) If the student is a category six special education student, the amount specified in division (F) of section 3317.013 of the Revised Code.

(D) If the student is in kindergarten through third grade, \$320;

(E) If the student is economically disadvantaged, an amount equal to the following:

\$272 X the resident district's economically disadvantaged index

(F) Limited English proficiency funds, as follows:

(1) If the student is a category one limited English proficient student, the amount specified in division (A) of section 3317.016 of the Revised Code;

(2) If the student is a category two limited English proficient student, the amount specified in division (B) of section 3317.016 of the Revised Code;

(3) If the student is a category three limited English proficient student, the amount specified in division (C) of section 3317.016 of the Revised Code.

(G) Career-technical education funds as follows:

(1) If the student is a category one career-technical education student, the amount specified in division (A) of section 3317.014 of the Revised Code;

(2) If the student is a category two career-technical education student, the amount specified in division (B) of section 3317.014 of the Revised Code;

(3) If the student is a category three career-technical education student, the amount specified in division (C) of section 3317.014 of the Revised Code;

(4) If the student is a category four career-technical education student, the amount specified in division (D) of section 3317.014 of the Revised Code;

(5) If the student is a category five career-technical education student, the amount specified in division (E) of section 3317.014 of the Revised Code.

Deduction and payment of funds under division (G) of this section is subject to approval under section 3317.161 of the Revised Code.

**Sec. 3326.41.**

**Sec. 3326.50.** Except as provided in division (A)(2) of section 3326.10 of the Revised Code, a science, technology, engineering, and mathematics school shall not charge tuition for any student enrolled in the school.

**Sec. 3327.01.** Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, this section and sections 3327.011, 3327.012, and 3327.02 of the Revised Code do not apply to any joint vocational or cooperative education school district.

In all city, local, and exempted village school districts where resident school pupils in grades kindergarten through eight live more than two miles from the school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code and to which they are assigned by the board of education of the district of residence or to and from the nonpublic or community school which they attend, the board of education shall provide transportation for such pupils to and from that school except as provided in section 3327.02 of the Revised Code.

In all city, local, and exempted village school districts where pupil transportation is required under a career-technical plan approved by the state board of education under section 3313.90 of the Revised Code, for any student attending a career-technical program operated by another school district, including a joint vocational school district, as prescribed under that section, the board of education of the student's district of residence shall provide transportation from the public high school operated by that district to which the student is assigned to the career-technical program.

In all city, local, and exempted village school districts, the board may provide transportation for resident school pupils in grades nine through twelve to and from the high school to which they are assigned by the board of education of the district of residence or to and from the nonpublic or

community high school which they attend for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code.

A board of education shall not be required to transport elementary or high school pupils to and from a nonpublic or community school where such transportation would require more than thirty minutes of direct travel time as measured by school bus from the public school building to which the pupils would be assigned if attending the public school designated by the district of residence.

Where it is impractical to transport a pupil by school conveyance, a board of education may offer payment, in lieu of providing such transportation in accordance with section 3327.02 of the Revised Code.

A board of education shall not be required to transport elementary or high school pupils to and from a nonpublic or community school on Saturday or Sunday, unless a board of education and a nonpublic or community school have an agreement in place to do so before the first day of July of the school year in which the agreement takes effect.

In all city, local, and exempted village school districts, the board shall provide transportation for all children who are so disabled that they are unable to walk to and from the school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code and which they attend. In case of dispute whether the child is able to walk to and from the school, the health commissioner shall be the judge of such ability. In all city, exempted village, and local school districts, the board shall provide transportation to and from school or special education classes for mentally disabled children in accordance with standards adopted by the state board of education.

When transportation of pupils is provided the conveyance shall be run on a time schedule that shall be adopted and put in force by the board not later than ten days after the beginning of the school term.

The cost of any transportation service authorized by this section shall be paid first out of federal funds, if any, available for the purpose of pupil transportation, and secondly out of state appropriations, in accordance with regulations adopted by the state board of education.

No transportation of any pupils shall be provided by any board of education to or from any school which in the selection of pupils, faculty members, or employees, practices discrimination against any person on the grounds of race, color, religion, or national origin.

**Sec. 3327.02.** (A) After considering each of the following factors, the board of education of a city, exempted village, or local school district, or a community school governing authority providing transportation pursuant to section 3314.091 of the Revised Code, may determine that it is impractical to transport a pupil who is eligible for transportation to and from a school under section 3327.01 of the Revised Code:

- (1) The time and distance required to provide the transportation;
- (2) The number of pupils to be transported;
- (3) The cost of providing transportation in terms of equipment, maintenance, personnel, and administration;
- (4) Whether similar or equivalent service is provided to other pupils eligible for transportation;
- (5) Whether and to what extent the additional service unavoidably disrupts current

transportation schedules;

(6) Whether other reimbursable types of transportation are available.

(B) Based on its consideration of the factors established in division (A) of this section, the board or governing authority may pass a resolution declaring the impracticality of transportation. The resolution shall include each pupil's name and the reason for impracticality.

The board or governing authority shall report its determination to the state board of education in a manner determined by the state board.

(C) After passing the resolution declaring the impracticality of transportation, the district board or governing authority shall offer to provide payment in lieu of transportation by doing the following:

(1) In accordance with guidelines established by the department of education, informing the pupil's parent, guardian, or other person in charge of the pupil of both of the following:

(a) The resolution;

(b) The right of the pupil's parent, guardian, or other person in charge of the pupil to accept the offer of payment in lieu of transportation or to reject the offer and instead request the department to initiate mediation procedures.

(2) Issuing the pupil's parent, guardian, or other person in charge of the pupil a contract or other form on which the parent, guardian, or other person in charge of the pupil is given the option to accept or reject the board's offer of payment in lieu of transportation.

(D) If the parent, guardian, or other person in charge of the pupil accepts the offer of payment in lieu of providing transportation, the board or governing authority shall pay the parent, guardian, or other person in charge of the pupil an amount that shall be not less than the amount determined by the general assembly as the minimum for payment in lieu of transportation, and not more than the amount determined by the department of education as the average cost of pupil transportation for the previous school year. Payment may be prorated if the time period involved is only a part of the school year.

(E)(1)(a) Upon the request of a parent, guardian, or other person in charge of the pupil who rejected the payment in lieu of transportation, the department shall conduct mediation procedures.

(b) If the mediation does not resolve the dispute, the state board of education shall conduct a hearing in accordance with Chapter 119. of the Revised Code. The state board may approve the payment in lieu of transportation or may order the district board of education or governing authority to provide transportation. The decision of the state board is binding in subsequent years and on future parties in interest provided the facts of the determination remain comparable.

(2) The school district or governing authority shall provide transportation for the pupil from the time the parent, guardian, or other person in charge of the pupil requests mediation until the matter is resolved under division (E)(1)(a) or (b) of this section.

(F)(1) If the department determines that a school district board or governing authority has failed or is failing to provide transportation as required by division (E)(2) of this section or as ordered by the state board under division (E)(1)(b) of this section, the department shall order the school district board or governing authority to pay to the pupil's parent, guardian, or other person in charge of the pupil, an amount equal to the state average daily cost of transportation as determined by the state board of education for the previous year. The school district board or governing authority shall

make payments on a schedule ordered by the department.

(2) If the department subsequently finds that a school district board is not in compliance with an order issued under division (F)(1) of this section and the affected pupils are enrolled in a nonpublic or community school, the department shall deduct the amount that the board is required to pay under that order from any pupil transportation payments the department makes to the school district board under section 3317.0212 of the Revised Code or other provisions of law. The department shall use the moneys so deducted to make payments to the nonpublic or community school attended by the pupil. The department shall continue to make the deductions and payments required under this division until the school district board either complies with the department's order issued under division (F)(1) of this section or begins providing transportation.

(G) A nonpublic or community school that receives payments from the department under division (F)(2) of this section shall do either of the following:

(1) Disburse the entire amount of the payments to the parent, guardian, or other person in charge of the pupil affected by the failure of the school district of residence to provide transportation;

(2) Use the entire amount of the payments to provide acceptable transportation for the affected pupil.

**Sec. 3328.24.** A college-preparatory boarding school established under this chapter and its board of trustees shall comply with sections 102.02, 3301.0710, 3301.0711, 3301.0712, 3301.0714, 3301.0729, 3301.948, 3313.536, 3313.6013, 3313.6021, 3313.6411, 3313.7112, 3313.721, 3313.89, 3319.39, 3319.391, and 3319.46 and Chapter 3365. of the Revised Code as if the school were a school district and the school's board of trustees were a district board of education.

**Sec. 3332.10.** (A) No individual shall sell any program or solicit students therefor in this state unless the individual is an employee of the school. Any individual whose primary duty, whether on or off school premises, is to solicit prospective students shall first secure a permit as an agent from the state board of career colleges and schools. If the agent represents more than one school, a separate permit shall be obtained for each school represented by the agent. An agent who represents a person that operates more than one school in the same geographical area, as determined by the board, need not obtain a separate permit for each such school. Upon approval for a permit, the board shall issue a pocket card to the individual, giving the individual's name, address, permit number, and the name and address of the employing school, and certifying that the individual whose name appears on the card is an authorized agent of the school.

(B) The application for a permit shall be made on forms to be furnished by the board and accompanied by the fee established in accordance with section 3332.07 of the Revised Code. A permit shall be granted for a period not to exceed twenty-four months and shall be valid for up to thirty days after its expiration date. An application for a renewal permit shall be accompanied by the fee established in accordance with section 3332.07 of the Revised Code.

(C) Each school subject to this chapter shall assume full responsibility for the actions, statements, and conduct of its agents, and shall provide them with adequate training and arrange for proper supervision of their work. The board shall hold schools liable for the actions, statements, and conduct of agents that violate any provision of this chapter, unless an agent's acts or omissions were manifestly outside the scope of the agent's employment or official responsibilities.

**Sec. 3333.01.** (A) There is hereby created the Ohio board of regents as an advisory board to

the chancellor of higher education appointed under section 3333.03 of the Revised Code. The board shall consist of nine members to be appointed by the governor with the advice and consent of the senate. The members shall be residents of this state who possess an interest in and knowledge of higher education. No member shall be a trustee, officer, or employee of any Ohio public or private college or university while serving as a member of the board. In addition to the members appointed by the governor, the chairperson of the education committee of the senate and the chairperson of the education committee of the house of representatives shall, after January 1, 1967, be ex officio members of the board without a vote.

(B) Prior to September 20, 2008, terms of office shall be for nine years, commencing on the twenty-first day of September and ending on the twentieth day of September.

(C) Beginning on September 20, 2008, the terms of office for the members of the board of regents shall be as follows:

(1) The terms of office of the three members whose terms under division (B) of this section are scheduled to expire on September 20, 2008, shall expire on September 20, 2008. The governor, with the advice and consent of the senate, shall appoint successors for terms beginning on September 21, 2008, and ending on September 20, 2014.

(2) Notwithstanding division (B) of this section, the terms of office of the three members whose terms under division (B) of this section otherwise are scheduled to expire on September 20, 2011, shall expire on September 20, 2010. The governor, with the advice and consent of the senate, shall appoint successors for terms beginning on September 21, 2010, and ending on September 20, 2016.

(3) Notwithstanding division (B) of this section, the terms of office of the three members whose terms under division (B) of this section otherwise are scheduled to expire on September 20, 2014, shall expire on September 20, 2012. The governor, with the advice and consent of the senate, shall appoint successors for terms beginning on September 21, 2012, and ending on September 20, 2018.

Thereafter, the terms of office of all subsequent members of the board of regents shall be for six years beginning on the twenty-first day of September and ending on the twentieth day of September.

(D) Except as provided in division (C) of this section, each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until a successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

No person who has served a full nine-year term under division (B) of this section or two full six-year terms under division (C) of this section shall be eligible for reappointment.

(E) Board members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the conduct of board business.

**Sec. 3333.011.** No member of the Ohio board of regents, created by section 3333.01 of the Revised Code, shall be a trustee, officer, or employee of a technical college while serving as a member of the board. Neither the chancellor of higher education nor any staff member or employee

of the department of higher education shall be a trustee, officer, or employee of a technical college while serving on the board.

**Sec. ~~3333.031~~ 3333.012.** Whenever the term "Ohio board of regents" is used, referred to, or designated in any statute, rule, contract, grant, or other document, the use, reference, or designation shall be construed to mean the "chancellor of the Ohio board of regents," except in sections 3333.01, 3333.011, 3333.02, and 3333.032 of the Revised Code or unless the use, reference, or designation of the term "Ohio board of regents" relates to the board's duties to give advice to the chancellor of the Ohio board of regents or unless another section of law expressly provides otherwise.

**Sec. 3333.021.** As used in this section, "university" means any college or university that receives a state appropriation.

(A) This division does not apply to proposed rules, amendments, or rescissions subject to legislative review under section 106.02 of the Revised Code. No action taken by the chancellor of higher education that could reasonably be expected to have an effect on the revenue or expenditures of any university shall take effect unless at least two weeks prior to the date on which the action is taken, the chancellor has filed with the speaker of the house of representatives, the president of the senate, the legislative service commission, and the director of budget and management a fiscal analysis of the proposed action. The analysis shall include an estimate of the amount by which, during the current and ensuing fiscal biennium, the action would increase or decrease the university's revenues or expenditures and increase or decrease any state expenditures and any other information the chancellor considers necessary to explain the action's fiscal effect.

(B) Within three days of the date the chancellor files with the clerk of the senate a proposed rule, amendment, or rescission that is subject to legislative review and invalidation under section 106.02 of the Revised Code, the chancellor shall file with the speaker of the house of representatives, the president of the senate, the legislative service commission, and the director of budget and management a fiscal analysis of the proposed rule. The analysis shall include an estimate of the amount by which, during the current and ensuing fiscal biennium, the action would increase or decrease any university's revenues or expenditures and increase or decrease state revenues or expenditures and any other information the chancellor considers necessary to explain the fiscal effect of the rule, amendment, or rescission. No rule, amendment, or rescission shall take effect unless the chancellor has complied with this division.

**Sec. 3333.03.** (A) There is hereby created the department of higher education, which shall be composed of the chancellor of higher education and the chancellor's employees, agents, and representatives. The chancellor shall perform the functions, exercise the powers, and discharge the duties as are assigned to the chancellor by law.

(B) The governor, with the advice and consent of the senate, shall appoint the chancellor of higher education. The chancellor shall serve at the pleasure of the governor, and the governor shall prescribe the chancellor's duties in addition to the chancellor's duties prescribed by law. The governor shall fix the compensation for the chancellor. The chancellor shall be a member of the governor's cabinet.

(C) The chancellor is responsible for appointing and fixing the compensation of all professional, administrative, and clerical employees and staff members necessary to assist in the performance of the chancellor's duties. All employees and staff shall serve at the chancellor's



pleasure.

(D) The chancellor shall be a person qualified by training and experience to understand the problems and needs of the state in the field of higher education and to devise programs, plans, and methods of solving the problems and meeting the needs.

(E) Neither the chancellor nor any staff member or employee of the chancellor shall be a trustee, officer, or employee of any public or private college or university while serving as chancellor, staff member, or employee.

**Sec. 3333.031.** Whenever the term "Ohio board of regents" is used, referred to, or designated in any statute, rule, contract, grant, or other document, the use, reference, or designation shall be construed to mean the "chancellor of the Ohio board of regents," except in sections 3333.01, 3333.011, 3333.02, and 3333.032 of the Revised Code or unless the use, reference, or designation of the term "Ohio board of regents" relates to the board's duties to give advice to the chancellor of the Ohio board of regents or unless another section of law expressly provides otherwise.

**Sec. 3333.032.** The Ohio board of regents shall submit to the general assembly, in accordance with division (B) of section 101.68 of the Revised Code, and to the governor, an annual report on the condition of higher education in this state, including the performance of the chancellor of higher education.

**Sec. 3333.04.** The chancellor of higher education shall:

(A) Make studies of state policy in the field of higher education and formulate a master plan for higher education for the state, considering the needs of the people, the needs of the state, and the role of individual public and private institutions within the state in fulfilling these needs;

(B)(1) Report annually to the governor and the general assembly on the findings from the chancellor's studies and the master plan for higher education for the state;

(2) Report at least semiannually to the general assembly and the governor the enrollment numbers at each state-assisted institution of higher education.

(C) Approve or disapprove the establishment of new branches or academic centers of state colleges and universities;

(D) Approve or disapprove the establishment of state technical colleges or any other state institution of higher education;

(E) Recommend the nature of the programs, undergraduate, graduate, professional, state-financed research, and public services which should be offered by the state colleges, universities, and other state-assisted institutions of higher education in order to utilize to the best advantage their facilities and personnel;

(F) Recommend to the state colleges, universities, and other state-assisted institutions of higher education graduate or professional programs, including, but not limited to, doctor of philosophy, doctor of education, and juris doctor programs, that could be eliminated because they constitute unnecessary duplication, as shall be determined using the process developed pursuant to this division, or for other good and sufficient cause. Prior to recommending a program for elimination, the chancellor shall request the board of regents to hold at least one public hearing on the matter and advise the chancellor on whether the program should be recommended for elimination. The board shall provide notice of each hearing within a reasonable amount of time prior to its scheduled date. Following the hearing, the board shall issue a recommendation to the

chancellor. The chancellor shall consider the board's recommendation but shall not be required to accept it.

For purposes of determining the amounts of any state instructional subsidies paid to state colleges, universities, and other state-assisted institutions of higher education, the chancellor may exclude students enrolled in any program that the chancellor has recommended for elimination pursuant to this division except that the chancellor shall not exclude any such student who enrolled in the program prior to the date on which the chancellor initially commences to exclude students under this division.

The chancellor and state colleges, universities, and other state-assisted institutions of higher education shall jointly develop a process for determining which existing graduate or professional programs constitute unnecessary duplication.

(G) Recommend to the state colleges, universities, and other state-assisted institutions of higher education programs which should be added to their present programs;

(H) Conduct studies for the state colleges, universities, and other state-assisted institutions of higher education to assist them in making the best and most efficient use of their existing facilities and personnel;

(I) Make recommendations to the governor and general assembly concerning the development of state-financed capital plans for higher education; the establishment of new state colleges, universities, and other state-assisted institutions of higher education; and the establishment of new programs at the existing state colleges, universities, and other institutions of higher education;

(J) Review the appropriation requests of the public community colleges and the state colleges and universities and submit to the office of budget and management and to the chairpersons of the finance committees of the house of representatives and of the senate the chancellor's recommendations in regard to the biennial higher education appropriation for the state, including appropriations for the individual state colleges and universities and public community colleges. For the purpose of determining the amounts of instructional subsidies to be paid to state-assisted colleges and universities, the chancellor shall define "full-time equivalent student" by program per academic year. The definition may take into account the establishment of minimum enrollment levels in technical education programs below which support allowances will not be paid. Except as otherwise provided in this section, the chancellor shall make no change in the definition of "full-time equivalent student" in effect on November 15, 1981, which would increase or decrease the number of subsidy-eligible full-time equivalent students, without first submitting a fiscal impact statement to the president of the senate, the speaker of the house of representatives, the legislative service commission, and the director of budget and management. The chancellor shall work in close cooperation with the director of budget and management in this respect and in all other matters concerning the expenditures of appropriated funds by state colleges, universities, and other institutions of higher education.

(K) Seek the cooperation and advice of the officers and trustees of both public and private colleges, universities, and other institutions of higher education in the state in performing the chancellor's duties and making the chancellor's plans, studies, and recommendations;

(L) Appoint advisory committees consisting of persons associated with public or private secondary schools, members of the state board of education, or personnel of the state department of

education;

(M) Appoint advisory committees consisting of college and university personnel, or other persons knowledgeable in the field of higher education, or both, in order to obtain their advice and assistance in defining and suggesting solutions for the problems and needs of higher education in this state;

(N) Approve or disapprove all new degrees and new degree programs at all state colleges, universities, and other state-assisted institutions of higher education;

(O) Adopt such rules as are necessary to carry out the chancellor's duties and responsibilities. The rules shall prescribe procedures for the chancellor to follow when taking actions associated with the chancellor's duties and responsibilities and shall indicate which types of actions are subject to those procedures. The procedures adopted under this division shall be in addition to any other procedures prescribed by law for such actions. However, if any other provision of the Revised Code or rule adopted by the chancellor prescribes different procedures for such an action, the procedures adopted under this division shall not apply to that action to the extent they conflict with the procedures otherwise prescribed by law. The procedures adopted under this division shall include at least the following:

(1) Provision for public notice of the proposed action;

(2) An opportunity for public comment on the proposed action, which may include a public hearing on the action by the board of regents;

(3) Methods for parties that may be affected by the proposed action to submit comments during the public comment period;

(4) Submission of recommendations from the board of regents regarding the proposed action, at the request of the chancellor;

(5) Written publication of the final action taken by the chancellor and the chancellor's rationale for the action;

(6) A timeline for the process described in divisions (O)(1) to (5) of this section.

(P) Make recommendations to the governor and the general assembly regarding the design and funding of the student financial aid programs specified in sections 3333.12, 3333.122, 3333.21 to 3333.26, and 5910.02 of the Revised Code;

(Q) Participate in education-related state or federal programs on behalf of the state and assume responsibility for the administration of such programs in accordance with applicable state or federal law;

(R) Adopt rules for student financial aid programs as required by sections 3333.12, 3333.122, 3333.21 to 3333.26, 3333.28, and 5910.02 of the Revised Code, and perform any other administrative functions assigned to the chancellor by those sections;

(S) Conduct enrollment audits of state-supported institutions of higher education;

(T) Appoint consortia of college and university personnel to advise or participate in the development and operation of statewide collaborative efforts, including the Ohio supercomputer center, the Ohio academic resources network, OhioLink, and the Ohio learning network. For each consortium, the chancellor shall designate a college or university to serve as that consortium's fiscal agent, financial officer, and employer. Any funds appropriated for the consortia shall be distributed to the fiscal agents for the operation of the consortia. A consortium shall follow the rules of the college

or university that serves as its fiscal agent. The chancellor may restructure existing consortia, appointed under this division, in accordance with procedures adopted under divisions (O)(1) to (6) of this section.

(U) Adopt rules establishing advisory duties and responsibilities of the board of regents not otherwise prescribed by law;

(V) Respond to requests for information about higher education from members of the general assembly and direct staff to conduct research or analysis as needed for this purpose.

**Sec. 3333.041.** (A) On or before the last day of December of each year, the chancellor of higher education shall submit to the governor and, in accordance with section 101.68 of the Revised Code, the general assembly a report or reports concerning all of the following:

(1) The status of graduates of Ohio school districts at state institutions of higher education during the twelve-month period ending on the thirtieth day of September of the current calendar year. The report shall list, by school district, the number of graduates of each school district who attended a state institution of higher education and the percentage of each district's graduates enrolled in a state institution of higher education during the reporting period who were required during such period by the college or university, as a prerequisite to enrolling in those courses generally required for first-year students, to enroll in a remedial course in English, including composition or reading, mathematics, and any other area designated by the chancellor. The chancellor also shall make the information described in division (A)(1) of this section available to the board of education of each city, exempted village, and local school district.

Each state institution of higher education shall, by the first day of November of each year, submit to the chancellor in the form specified by the chancellor the information the chancellor requires to compile the report.

(2) The following information with respect to the Ohio tuition trust authority:

(a) The name of each investment manager that is a minority business enterprise or a women's business enterprise with which the chancellor contracts;

(b) The amount of assets managed by investment managers that are minority business enterprises or women's business enterprises, expressed as a percentage of assets managed by investment managers with which the chancellor has contracted;

(c) Efforts by the chancellor to increase utilization of investment managers that are minority business enterprises or women's business enterprises.

(3) The chancellor's strategy in assigning choose Ohio first scholarships, as established under section 3333.61 of the Revised Code, among state universities and colleges and how the actual awards fit that strategy.

(4) The academic and economic impact of the Ohio co-op/internship program established under section 3333.72 of the Revised Code. At a minimum, the report shall include the following:

(a) Progress and performance metrics for each initiative that received an award in the previous fiscal year;

(b) Economic indicators of the impact of each initiative, and all initiatives as a whole, on the regional economies and the statewide economy;

(c) The chancellor's strategy in allocating awards among state institutions of higher education and how the actual awards fit that strategy.

(B) On or before the fifteenth day of February of each year, the ~~director~~chancellor shall submit to the governor and, in accordance with section 101.68 of the Revised Code, the general assembly a report concerning aggregate academic growth data for students assigned to graduates of teacher preparation programs approved under section 3333.048 of the Revised Code who teach English language arts or mathematics in any of grades four to eight in a public school in Ohio. For this purpose, the ~~director~~chancellor shall use the value-added progress dimension prescribed by section 3302.021 of the Revised Code or the alternative student academic progress measure if adopted under division (C)(1)(e) of section 3302.03 of the Revised Code. The ~~director~~chancellor shall aggregate the data by graduating class for each approved teacher preparation program, except that if a particular class has ten or fewer graduates to which this division applies, the ~~director~~chancellor shall report the data for a group of classes over a three-year period. In no case shall the report identify any individual graduate. The department of education shall share any data necessary for the report with the ~~director~~chancellor.

(C) As used in this section:

(1) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code.

(2) "State institution of higher education" and "state university" have the same meanings as in section 3345.011 of the Revised Code.

(3) "State university or college" has the same meaning as in section 3345.12 of the Revised Code.

(4) "Women's business enterprise" means a business, or a partnership, corporation, limited liability company, or joint venture of any kind, that is owned and controlled by women who are United States citizens and residents of this state.

**Sec. 3333.042.** The chancellor of higher education may grant money to a nonprofit entity that provides a statewide resource for aerospace research, education, and technology, so long as the nonprofit entity makes its resources accessible to state colleges and universities and to agencies of this and other states and the United States. The chancellor, by rule adopted in accordance with Chapter 119. of the Revised Code, shall establish procedures and forms whereby nonprofit entities may apply for grants; standards and procedures for reviewing applications for and awarding grants; procedures for distributing grants to recipients; procedures for monitoring the use of grants by recipients; requirements, procedures, and forms whereby grant recipients shall report upon their use of grants; and standards and procedures for terminating and requiring repayment of grants in the event of their improper use.

A state college or university or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code and any agency of state government may provide assistance, in any form, to any nonprofit entity that receives a grant under this section. Such assistance shall be solely for the purpose of assisting the nonprofit entity in making proper use of the grant.

A nonprofit entity that expends a grant under this section for a capital project is not thereby subject to Chapter 123. or 153. of the Revised Code. An officer or employee of, or a person who serves on a governing or advisory board or committee of, a nonprofit entity that receives a grant under this section is not thereby an officer or employee of a state college or university or of the state.

An officer or employee of a state college or university or of the state who is assigned to assist a nonprofit entity in making proper use of a grant does not, to the extent the officer or employee provides such assistance, thereby hold an incompatible office or employment, or have a direct or indirect interest in a contract or expenditure of the entity.

**Sec. 3333.043.** (A) As used in this section:

(1) "Institution of higher education" means the state universities listed in section 3345.011 of the Revised Code, municipal educational institutions established under Chapter 3349. of the Revised Code, community colleges established under Chapter 3354. of the Revised Code, university branches established under Chapter 3355. of the Revised Code, technical colleges established under Chapter 3357. of the Revised Code, state community colleges established under Chapter 3358. of the Revised Code, any institution of higher education with a certificate of registration from the state board of career colleges and schools, and any institution for which the chancellor of higher education receives a notice pursuant to division (C) of this section.

(2) "Community service" has the same meaning as in section 3313.605 of the Revised Code.

(B)(1) The board of trustees or other governing entity of each institution of higher education shall encourage and promote participation of students in community service through a program appropriate to the mission, student population, and environment of each institution. The program may include, but not be limited to, providing information about community service opportunities during student orientation or in student publications; providing awards for exemplary community service; encouraging faculty members to incorporate community service into students' academic experiences wherever appropriate to the curriculum; encouraging recognized student organizations to undertake community service projects as part of their purposes; and establishing advisory committees of students, faculty members, and community and business leaders to develop cooperative programs that benefit the community and enhance student experience. The program shall be flexible in design so as to permit participation by the greatest possible number of students, including part-time students and students for whom participation may be difficult due to financial, academic, personal, or other considerations. The program shall emphasize community service opportunities that can most effectively use the skills of students, such as tutoring or literacy programs. The programs shall encourage students to perform services that will not supplant the hiring of, result in the displacement of, or impair any existing employment contracts of any particular employee of any private or governmental entity for which services are performed.

(2) The chancellor of higher education shall encourage all institutions of higher education in the development of community service programs. With the assistance of the Ohio commission on service and volunteerism created in section 121.40 of the Revised Code, the chancellor shall make available information about higher education community service programs to institutions of higher education and to statewide organizations involved with or promoting volunteerism, including information about model community service programs, teacher training courses, and community service curricula and teaching materials for possible use by institutions of higher education in their programs. The chancellor shall encourage institutions of higher education to jointly coordinate higher education community service programs through consortia of institutions or other appropriate means of coordination.

(C) The board of trustees of any nonprofit institution with a certificate of authorization issued

pursuant to Chapter 1713. of the Revised Code or the governing authority of a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code may notify the chancellor that it is making itself subject to divisions (A) and (B) of this section. Upon receipt of such a notice, these divisions shall apply to that institution.

**Sec. 3333.044.** (A) The chancellor of higher education may contract with any consultants that are necessary for the discharge of the chancellor's duties under this chapter.

(B) The chancellor may purchase, upon the terms that the chancellor determines to be advisable, one or more policies of insurance from insurers authorized to do business in this state that insure consultants who have contracted with the chancellor under division (A) of this section or members of an advisory committee appointed under section 3333.04 of the Revised Code, with respect to the activities of the consultants or advisory committee members in the course of the performance of their responsibilities as consultants or advisory committee members.

(C) Subject to the approval of the controlling board, the chancellor may contract with any entities for the discharge of the chancellor's duties and responsibilities under any of the programs established pursuant to sections 3333.12, 3333.122, 3333.21 to 3333.28, and 5120.55, and Chapter 5910. of the Revised Code. The chancellor shall not enter into a contract under this division unless the proposed contractor demonstrates that its primary purpose is to promote access to higher education by providing student financial assistance through loans, grants, or scholarships, and by providing high quality support services and information to students and their families with regard to such financial assistance.

Chapter 125. of the Revised Code does not apply to contracts entered into pursuant to this section. In awarding contracts under this division, the chancellor shall consider factors such as the cost of the administration of the contract, the experience of the contractor, and the contractor's ability to properly execute the contract.

**Sec. 3333.045.** As used in this section, "state university or college" means any state university listed in section 3345.011 of the Revised Code, the northeast Ohio medical university, any community college under Chapter 3354. of the Revised Code, any university branch district under Chapter 3355. of the Revised Code, any technical college under Chapter 3357. of the Revised Code, and any state community college under Chapter 3358. of the Revised Code.

The chancellor of higher education shall work with the attorney general, the auditor of state, and the Ohio ethics commission to develop a model for training members of the boards of trustees of all state universities and colleges and members of the board of regents regarding the authority and responsibilities of a board of trustees or the board of regents. This model shall include a review of fiduciary responsibilities, ethics, and fiscal management. Use of this model by members of boards of trustees and the board of regents shall be voluntary.

**Sec. 3333.047.** With regard to any state student financial aid program established in this chapter, Chapter 5910., or section 5919.34 of the Revised Code, the chancellor of higher education shall conduct audits to:

(A) Determine the validity of information provided by students and parents regarding eligibility for state student financial aid. If the chancellor determines that eligibility data has been reported incorrectly or inaccurately, and where the chancellor determines an adjustment to be appropriate, the institution of higher education shall adjust the financial aid awarded to the student.

(B) Ensure that institutions of higher education are in compliance with the rules governing state student financial aid programs. An institution that fails to comply with the rules in the administration of any state student financial aid program shall be fully liable to reimburse the state for the unauthorized use of student financial aid funds.

**Sec. 3333.048.** (A) Not later than one year after October 16, 2009, the chancellor of higher education and the superintendent of public instruction jointly shall do the following:

(1) In accordance with Chapter 119. of the Revised Code, establish metrics and educator preparation programs for the preparation of educators and other school personnel and the institutions of higher education that are engaged in their preparation. The metrics and educator preparation programs shall be aligned with the standards and qualifications for educator licenses adopted by the state board of education under section 3319.22 of the Revised Code and the requirements of the Ohio teacher residency program established under section 3319.223 of the Revised Code. The metrics and educator preparation programs also shall ensure that educators and other school personnel are adequately prepared to use the value-added progress dimension prescribed by section 3302.021 of the Revised Code or the alternative student academic progress measure if adopted under division (C)(1) (e) of section 3302.03 of the Revised Code.

(2) Provide for the inspection of institutions of higher education desiring to prepare educators and other school personnel.

(B) Not later than one year after October 16, 2009, the chancellor shall approve institutions of higher education engaged in the preparation of educators and other school personnel that maintain satisfactory training procedures and records of performance, as determined by the chancellor.

(C) If the metrics established under division (A)(1) of this section require an institution of higher education that prepares teachers to satisfy the standards of an independent accreditation organization, the chancellor shall permit each institution to satisfy the standards of any applicable national educator preparation accrediting agency recognized by the United States department of education.

(D) The metrics and educator preparation programs established under division (A)(1) of this section may require an institution of higher education, as a condition of approval by the chancellor, to make changes in the curricula of its preparation programs for educators and other school personnel.

Notwithstanding division (E) of section 119.03 and division (A)(1) of section 119.04 of the Revised Code, any metrics, educator preparation programs, rules, and regulations, or any amendment or rescission of such metrics, educator preparation programs, rules, and regulations, adopted under this section that necessitate institutions offering preparation programs for educators and other school personnel approved by the chancellor to revise the curricula of those programs shall not be effective for at least one year after the first day of January next succeeding the publication of the said change.

Each institution shall allocate money from its existing revenue sources to pay the cost of making the curricular changes.

(E) The chancellor shall notify the state board of the metrics and educator preparation programs established under division (A)(1) of this section and the institutions of higher education approved under division (B) of this section. The state board shall publish the metrics, educator preparation programs, and approved institutions with the standards and qualifications for each type of educator license.



(F) The graduates of educator preparation programs approved by the chancellor shall be licensed by the state board in accordance with the standards and qualifications adopted under section 3319.22 of the Revised Code.

**Sec. 3333.049.** Not later than July 1, 2016, the chancellor of higher education shall revise the requirements for reading endorsement programs offered by institutions of higher education to align those requirements with the reading competencies adopted by the state board of education under section 3301.077 of the Revised Code.

**Sec. 3333.0410.** The chancellor of higher education shall require each state institution of higher education, as defined in section 3345.011 of the Revised Code, when reporting student data to the chancellor under any provision of law, to use the student's data verification code assigned under division (D)(2) of section 3301.0714 of the Revised Code, if that code was included in the student's records submitted to the institution by the student's high school or by another state institution of higher education.

**Sec. 3333.0411.** Not later than December 31, 2014, and annually thereafter, the chancellor of higher education shall report for each approved teacher preparation program, the number and percentage of all graduates of the program who were rated at each of the performance levels prescribed by division (B)(1) of section 3319.112 of the Revised Code on an evaluation conducted in accordance with section 3319.111 of the Revised Code in the previous school year.

In no case shall the report identify any individual graduate. The department of education shall share any data necessary for the report with the chancellor.

**Sec. 3333.0412.** (A) No nonprofit institution that holds a certificate of authorization issued under Chapter 1713. of the Revised Code shall be liable for a breach of confidentiality arising from the institution's submission of student data or records to the chancellor of higher education or any other state agency in compliance with any law, rule, or regulation, provided that the breach occurs as a result of one of the following:

(1) An action by a third party during and after the transmission of the data or records by the institution but prior to receipt of the data or records by the chancellor of higher education or other state agency;

(2) An action by the chancellor of higher education or the state agency.

(B) No nonprofit institution that holds a certificate of authorization issued under Chapter 1713. of the Revised Code shall be liable for a breach of confidentiality or any other claim that arises from the institution's disclosure of the public records pursuant to a request for public records made under section 149.43 of the Revised Code, except for claims based on the institution's failure to disclose public records as required by law.

This provision shall apply to the submission of any student data or records that are subject to any laws of this state or, to the extent permitted, any federal law, including the "Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g.

**Sec. 3333.0413.** Not later than December 31, 2014, the chancellor of higher education shall make available, in a prominent location on the chancellor's web site, a complete inventory of education programs that focus on workforce development and training that includes both of the following:

(A) Programs offered by state institutions of higher education, as defined in section 3345.011

of the Revised Code, adult career-technical institutions, and all private nonprofit and for-profit postsecondary institutions operating in the state;

(B) Programs registered with the apprenticeship council established under Chapter 4139. of the Revised Code.

The chancellor may update this inventory as necessary.

**Sec. 3333.05.** The chancellor of higher education shall approve or disapprove proposed official plans of community college districts, prepared and submitted pursuant to sections 3354.01 to 3354.18 of the Revised Code, and issue or decline to issue charters for operation of community colleges, pursuant to section 3354.07 of the Revised Code.

The chancellor shall approve an official plan, and issue a charter, only upon the following findings:

(A) That the official plan and all past and proposed actions of the community college district are in conformity to law;

(B) That the proposed community college will not unreasonably and wastefully duplicate existing educational services available to students and prospective students residing in the community college district;

(C) That there is reasonable prospect of adequate current operating revenue for the proposed community college from its proposed opening date of operation;

(D) That the proposed lands and facilities of the community colleges will be adequate and efficient for the purposes of the proposed community college;

(E) That the proposed curricular programs defined in section 3354.01 of the Revised Code as "arts and sciences" and "technical," or either, are the programs for which there is substantial need in the territory of the district.

The employment and separation of individual personnel in a community college, and the establishing or abolishing of individual courses of instruction, shall not be subject to the specific and individual approval or disapproval of the chancellor, but shall occur in the discretion of the local management of such college within the limitations of law, the official plan, and the charter of such college.

**Sec. 3333.06.** The chancellor of higher education shall prepare a state plan and do all other things necessary for participation in federal acts relative to the construction of higher educational academic facilities.

Such plan shall provide for objective standards and methods of determining the relative priorities for eligible projects for the construction of academic facilities submitted by institutions of higher education within the state and for determining the federal share of the development for each such project.

The chancellor shall provide for assigning priorities in accordance with such criteria, standards, and methods to eligible projects submitted to and approved by the chancellor, shall recommend to the United States secretary of education, in the order of such priority, applications covering such eligible projects, and shall certify to the secretary the federal share of the development cost of such projects.

The chancellor shall provide a fair hearing to each institution which has submitted a project as to the priority assigned to such project by the chancellor or as to any other determination of the

chancellor adversely affecting such institution.

The chancellor shall receive federal grants for the proper and efficient administration of the state plan, and shall provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, federal funds paid to the chancellor.

The chancellor shall make such reports in such form and containing such information as may be reasonably required by the secretary in the performance of the secretary's functions under federal law relating to grants for the construction of academic facilities.

Each federal grant received by the chancellor shall be paid into the state treasury.

**Sec. 3333.07.** (A) Colleges, universities, and other institutions of higher education which receive state assistance, but are not supported primarily by the state, shall submit to the chancellor of higher education such accounting of the expenditure of state funds at such time and in such form as the chancellor prescribes.

(B) No state institution of higher education shall establish a new branch or academic center without the approval of the chancellor.

(C) No state institution of higher education shall offer a new degree or establish a new degree program without the approval of the chancellor. No degree approval shall be given for a technical education program unless such program is offered by a state assisted university, a university branch, a technical college, or a community college.

(D) Any state college, university, or other state assisted institution of higher education not complying with a recommendation of the chancellor pursuant to division (F) or (G) of section 3333.04 of the Revised Code shall so notify the chancellor in writing within one hundred twenty days after receipt of the recommendation, stating the reasons why it cannot or should not comply.

(E) The officers, trustees, and employees of all institutions of higher education which are state supported or state assisted shall cooperate with the chancellor in supplying information regarding their institutions, and advising and assisting the chancellor on matters of higher education in this state in every way possible when so requested by the chancellor.

(F) Persons associated with the public school systems in this state, personnel of the state department of education, and members of the state board of education shall provide such data about high school students as are requested by the chancellor to aid in the development of state higher education plans.

**Sec. 3333.071.** Notwithstanding section 3345.16 of the Revised Code, no expenditure shall be made for land for higher education purposes by public institutions of higher education or agents of such institutions from any fund without the approval of the chancellor of higher education and the controlling board. No state appropriation for capital improvements shall be released by the controlling board for the purchase of land or buildings from any organization or corporation which has been established to benefit or assist the institution, except that such releases may be made if the land is to be used for a currently state-financed improvement.

**Sec. 3333.08.** It is the declared policy of this state that the availability of eminent domain on behalf of educational institutions of higher education is in the public welfare. A private college, university, or other institution of higher education may therefore apply to the chancellor of higher education for the right to appropriate property when such institution is unable to agree with the owner or owners of the subject property upon the price to be paid for the property. The institution

shall be one that any educationally qualified member of the public who desires to attend has, or can acquire, a right to be admitted upon equal terms without discrimination. The institution shall certify to the chancellor, in its application, that the use of the property to be appropriated is to be for educational purposes, including student housing and dining facilities, that reasonable efforts have been made to purchase the property, and that it will be used without discrimination against any person or group and be equally available to all qualified persons. The institution also shall submit to the chancellor its plans for the use of the property and such other information as the chancellor may require. The chancellor may, thereafter, and upon a determination that the intended use is in the public interest, approve the application by resolution. Upon such approval, the institution may appropriate the property in the same manner as is provided for the appropriation of property in Chapter 163. of the Revised Code.

**Sec. 3333.09.** "Public university or college," as used in this section, means any nonprofit university or college situated within this state which is open to the public on equal terms and which is not affiliated with or controlled by an organization which is not primarily educational in nature. Any such university or college shall be considered to be serving a public purpose.

The chancellor of higher education may, upon the chancellor's determination that such action would serve the interests of higher education in this state, in terms of expansion of educational opportunity in a major urban area and in terms of expansion of educational service to a major urban community, accept conveyances of land, situated within this state, from any public university or college and enter into an agreement before or after such conveyance to lease to such public university or college, upon terms as may be prescribed by the chancellor, such land together with buildings constructed thereon and furniture, fixtures, and equipment therein for use as an educational facility. The lease shall be for a period not to exceed fifty years, renewable for a like term, and shall provide that such buildings be used solely for educational purposes and that the chancellor may cancel such lease if such buildings are used for other purposes. Such lease may contain provisions for the sale of such property to the lessee, upon the consent of the chancellor, for a purchase price not less than the actual cost to the chancellor, less depreciation, computed at the rate customarily applied to similar structures. The chancellor, through the department of administrative services, may construct, equip, or remodel buildings on lands accepted by the chancellor in the name of the state pursuant to this section. Title to lands acquired under this section shall be taken in the name of the state.

Responsibility for the proper use, maintenance, and repair of leased buildings shall rest upon the lessee.

**Sec. 3333.10.** (A) As used in this section:

(1) "Qualified institution of higher education" or "institution" means a nonprofit educational institution, holding an effective certificate of authorization issued under section 1713.02 of the Revised Code, operating in the state an eligible program, and admitting students without discrimination by reason of race, creed, color, or national origin.

(2) "School of dentistry" means an accredited dental college as defined under section 4715.10 of the Revised Code.

(3) "Eligible program" means a medical school accredited by the liaison committee on medical education or an osteopathic medical school accredited by the American osteopathic association, or such a school together with a school of dentistry.

(B) In order to provide better for the public health and the necessary enhancement of instruction in medicine and dentistry in the state, and to encourage the means of such instruction with the least economic cost to the people of the state, the chancellor of higher education may enter into agreements with qualified institutions of higher education providing for the continued operation by the institution of eligible programs, conditioned upon continued payments by the state to such institution for the purposes of such eligible programs of amounts determined in the manner provided for the state subsidy from time to time afforded to state universities on the basis of comparable programs. Before entering into such agreement, the chancellor shall determine that the institution is a qualified institution of higher education as defined in division (A) of this section, and that the operation of such eligible programs as provided for in such agreement and such payments will contribute to the objectives stated in this section and to the objectives of the master plan of higher education formulated under section 3333.04 of the Revised Code.

(C) Agreements under this section shall contain provisions to the effect that:

(1) The institution shall submit to the chancellor accountings for the expenditure of state payments in the manner and at the times as are requested for state-assisted institutions of higher education pursuant to division (A) of section 3333.07 of the Revised Code.

(2) The institution shall notify the chancellor in the manner provided for state-assisted institutions under division (D) of section 3333.07 of the Revised Code with regard to program recommendations by the chancellor in the nature of those provided for in divisions (F) and (G) of section 3333.04 of the Revised Code.

(3) The agreement shall terminate if the institution ceases to be a qualified institution of higher education as determined by the chancellor in accordance with Chapter 119. of the Revised Code.

(D) Agreements under this section may make further provision for any one or more of the following as the parties determine:

(1) The duration of any such agreement, or additional provision for terminating the agreement;

(2) Additional conditions for the effectiveness or continued effectiveness of such agreement;

(3) Procedures for the amendment or supplementation of the agreement, including designation of the parties to approve or execute such amendments or supplements;

(4) Such other provisions as may be deemed necessary or appropriate.

(E) In case any provision or part of this section or any provision, agreement, covenant, stipulation, obligation, act or action, or part thereof, made, assumed, or taken under or pursuant to this section, or any application thereof, is for any reason held to be illegal or invalid, such illegality or invalidity shall not affect the remainder thereof or any other provision of this section or any other provision, agreement, covenant, stipulation, obligation, action, or part thereof, made, assumed, or taken under or pursuant to this section, which shall be construed and enforced as if such illegal or invalid portion were not contained therein, nor shall such illegality or invalidity of any application thereof affect any legal and valid application thereof, and each such provision, agreement, covenant, stipulation, obligation, act, or action, or part thereof, shall be deemed to be effective, operative, made, done, or entered into in the manner and to the full extent permitted by law to accomplish most nearly the intention thereof.

(F) No agreement shall be entered into under this section with any institution which is not in compliance with section 3333.11 of the Revised Code.

**Sec. 3333.11.** Each school or college of medicine or medical university supported in whole or in part by the state shall create a curriculum for and maintain a department of family practice, the purpose of which shall be to acquaint undergraduates with and to train postgraduate physicians for the practice of family medicine. The minimum requirements for the department shall include courses of study in family care, including clinical experience, a program of preceptorships, and a program of family practice residencies in university or other hospital settings.

Each program of family practice shall:

- (A) Be designated to advance the field of family practice;
- (B) Educate all medical students in family practice and encourage students to enter it as a career;
- (C) Provide students an opportunity to study family practice in various situations through preceptorships, seminars, model family practice units within the medical school, classroom work, hospital programs, or other means;
- (D) Develop residency and other training programs for family practice in public and private hospitals, including those in nonmetropolitan areas of the state;
- (E) The department shall be a full department co-equal with all other major clinical departments and headed by a qualified experienced family practitioner serving as chairperson of the department of family practice and director of the family practice residency program.

Funds appropriated by the general assembly in support of family practice programs shall not be disbursed until the chancellor of higher education has certified that the intent and requirements of this section are being met.

**Sec. 3333.12.** (A) As used in this section:

- (1) "Eligible student" means an undergraduate student who is:
  - (a) An Ohio resident enrolled in an undergraduate program before the 2006-2007 academic year;
  - (b) Enrolled in either of the following:
    - (i) An accredited institution of higher education in this state that meets the requirements of Title VI of the Civil Rights Act of 1964 and is state-assisted, is nonprofit and has a certificate of authorization pursuant to Chapter 1713. of the Revised Code, has a certificate of registration from the state board of career colleges and schools and program authorization to award an associate or bachelor's degree, or is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code. Students who attend an institution that holds a certificate of registration shall be enrolled in a program leading to an associate or bachelor's degree for which associate or bachelor's degree program the institution has program authorization issued under section 3332.05 of the Revised Code.
    - (ii) A technical education program of at least two years duration sponsored by a private institution of higher education in this state that meets the requirements of Title VI of the Civil Rights Act of 1964.
  - (c) Enrolled as a full-time student or enrolled as a less than full-time student for the term expected to be the student's final term of enrollment and is enrolled for the number of credit hours

necessary to complete the requirements of the program in which the student is enrolled.

(2) "Gross income" includes all taxable and nontaxable income of the parents, the student, and the student's spouse, except income derived from an Ohio academic scholarship, income earned by the student between the last day of the spring term and the first day of the fall term, and other income exclusions designated by the chancellor of higher education. Gross income may be verified to the chancellor by the institution in which the student is enrolled using the federal financial aid eligibility verification process or by other means satisfactory to the chancellor.

(3) "Resident," "full-time student," "dependent," "financially independent," and "accredited" shall be defined by rules adopted by the chancellor.

(B) The chancellor shall establish and administer an instructional grant program and may adopt rules to carry out this section. The general assembly shall support the instructional grant program by such sums and in such manner as it may provide, but the chancellor may also receive funds from other sources to support the program. If the amounts available for support of the program are inadequate to provide grants to all eligible students, preference in the payment of grants shall be given in terms of income, beginning with the lowest income category of gross income and proceeding upward by category to the highest gross income category.

An instructional grant shall be paid to an eligible student through the institution in which the student is enrolled, except that no instructional grant shall be paid to any person serving a term of imprisonment. Applications for such grants shall be made as prescribed by the chancellor, and such applications may be made in conjunction with and upon the basis of information provided in conjunction with student assistance programs funded by agencies of the United States government or from financial resources of the institution of higher education. The institution shall certify that the student applicant meets the requirements set forth in divisions (A)(1)(b) and (c) of this section. Instructional grants shall be provided to an eligible student only as long as the student is making appropriate progress toward a nursing diploma or an associate or bachelor's degree. No student shall be eligible to receive a grant for more than ten semesters, fifteen quarters, or the equivalent of five academic years. A grant made to an eligible student on the basis of less than full-time enrollment shall be based on the number of credit hours for which the student is enrolled and shall be computed in accordance with a formula adopted by the chancellor. No student shall receive more than one grant on the basis of less than full-time enrollment.

An instructional grant shall not exceed the total instructional and general charges of the institution.

(C) The tables in this division prescribe the maximum grant amounts covering two semesters, three quarters, or a comparable portion of one academic year. Grant amounts for additional terms in the same academic year shall be determined under division (D) of this section.

For a full-time student who is a dependent and enrolled in a nonprofit educational institution that is not a state-assisted institution and that has a certificate of authorization issued pursuant to Chapter 1713. of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Private Institution

Table of Grants  
Maximum Grant \$5,466

Gross Income	Number of Dependents				
	1	2	3	4	5 or more
\$0 - \$15,000	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466
\$15,001 - \$16,000		4,920	5,466	5,466	5,466
\$16,001 - \$17,000		4,362	4,920	5,466	5,466
\$17,001 - \$18,000		3,828	4,362	4,920	5,466
\$18,001 - \$19,000		3,288	3,828	4,362	4,920
\$19,001 - \$22,000		2,736	3,288	3,828	4,362
\$22,001 - \$25,000		2,178	2,736	3,288	3,828
\$25,001 - \$28,000		1,626	2,178	2,736	3,288
\$28,001 - \$31,000		1,344	1,626	2,178	2,736
\$31,001 - \$32,000		1,080	1,344	1,626	2,178
\$32,001 - \$33,000		984	1,080	1,344	1,626
\$33,001 - \$34,000		888	984	1,080	1,344
\$34,001 - \$35,000		444	888	984	1,080
\$35,001 - \$36,000		--	444	888	984
\$36,001 - \$37,000		--	--	444	888
\$37,001 - \$38,000		--	--	--	444
\$38,001 - \$39,000		--	--	--	444

For a full-time student who is financially independent and enrolled in a nonprofit educational institution that is not a state-assisted institution and that has a certificate of authorization issued pursuant to Chapter 1713. of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Private Institution

Table of Grants  
Maximum Grant \$5,466

Gross Income	Number of Dependents				
	0	1	2	3	4



\$0 - \$4,800	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466
\$4,801 - \$5,300	4,920	5,466	5,466	5,466	5,466	5,466	5,466
\$5,301 - \$5,800	4,362	5,196	5,466	5,466	5,466	5,466	5,466
\$5,801 - \$6,300	3,828	4,914	5,196	5,466	5,466	5,466	5,466
\$6,301 - \$6,800	3,288	4,650	4,914	5,196	5,466	5,466	5,466
\$6,801 - \$7,300	2,736	4,380	4,650	4,914	5,196	5,466	5,466
\$7,301 - \$8,300	2,178	4,104	4,380	4,650	4,914	5,196	5,196
\$8,301 - \$9,300	1,626	3,822	4,104	4,380	4,650	4,914	4,914
\$9,301 - \$10,300	1,344	3,546	3,822	4,104	4,380	4,650	4,650
\$10,301 - \$11,800	1,080	3,408	3,546	3,822	4,104	4,380	4,380
\$11,801 - \$13,300	984	3,276	3,408	3,546	3,822	4,104	4,104
\$13,301 - \$14,800	888	3,228	3,276	3,408	3,546	3,822	3,822
\$14,801 - \$16,300	444	2,904	3,228	3,276	3,408	3,546	3,546
\$16,301 - \$19,300	--	2,136	2,628	2,952	3,276	3,408	3,408
\$19,301 - \$22,300	--	1,368	1,866	2,358	2,676	3,000	3,000
\$22,301 - \$25,300	--	1,092	1,368	1,866	2,358	2,676	2,676
\$25,301 - \$30,300	--	816	1,092	1,368	1,866	2,358	2,358
\$30,301 - \$35,300	--	492	540	672	816	1,314	1,314

For a full-time student who is a dependent and enrolled in an educational institution that holds a certificate of registration from the state board of career colleges and schools or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Career Institution

Table of Grants

Maximum Grant \$4,632

Gross Income	Number of Dependents				
	1	2	3	4	5 or more
\$0 - \$15,000	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632
\$15,001 - \$16,000	4,182	4,632	4,632	4,632	4,632
\$16,001 - \$17,000	3,684	4,182	4,632	4,632	4,632

\$17,001 - \$18,000	3,222	3,684	4,182	4,632	4,632
\$18,001 - \$19,000	2,790	3,222	3,684	4,182	4,632
\$19,001 - \$22,000	2,292	2,790	3,222	3,684	4,182
\$22,001 - \$25,000	1,854	2,292	2,790	3,222	3,684
\$25,001 - \$28,000	1,416	1,854	2,292	2,790	3,222
\$28,001 - \$31,000	1,134	1,416	1,854	2,292	2,790
\$31,001 - \$32,000	906	1,134	1,416	1,854	2,292
\$32,001 - \$33,000	852	906	1,134	1,416	1,854
\$33,001 - \$34,000	750	852	906	1,134	1,416
\$34,001 - \$35,000	372	750	852	906	1,134
\$35,001 - \$36,000	--	372	750	852	906
\$36,001 - \$37,000	--	--	372	750	852
\$37,001 - \$38,000	--	--	--	372	750
\$38,001 - \$39,000	--	--	--	--	372

For a full-time student who is financially independent and enrolled in an educational institution that holds a certificate of registration from the state board of career colleges and schools or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Career Institution

Table of Grants

Maximum Grant \$4,632

Gross Income	Number of Dependents						
	0	1	2	3	4	5 or more	
\$0 - \$4,800	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632
\$4,801 - \$5,300		4,182	4,632	4,632	4,632	4,632	4,632
\$5,301 - \$5,800		3,684	4,410	4,632	4,632	4,632	4,632
\$5,801 - \$6,300		3,222	4,158	4,410	4,632	4,632	4,632
\$6,301 - \$6,800		2,790	3,930	4,158	4,410	4,632	4,632
\$6,801 - \$7,300		2,292	3,714	3,930	4,158	4,410	4,632
\$7,301 - \$8,300		1,854	3,462	3,714	3,930	4,158	4,410

\$8,301 - \$9,300	1,416	3,246	3,462	3,714	3,930	4,158
\$9,301 - \$10,300	1,134	3,024	3,246	3,462	3,714	3,930
\$10,301 - \$11,800	906	2,886	3,024	3,246	3,462	3,714
\$11,801 - \$13,300	852	2,772	2,886	3,024	3,246	3,462
\$13,301 - \$14,800	750	2,742	2,772	2,886	3,024	3,246
\$14,801 - \$16,300	372	2,466	2,742	2,772	2,886	3,024
\$16,301 - \$19,300	--	1,800	2,220	2,520	2,772	2,886
\$19,301 - \$22,300	--	1,146	1,584	1,986	2,268	2,544
\$22,301 - \$25,300	--	930	1,146	1,584	1,986	2,268
\$25,301 - \$30,300	--	708	930	1,146	1,584	1,986
\$30,301 - \$35,300	--	426	456	570	708	1,116

For a full-time student who is a dependent and enrolled in a state-assisted educational institution, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Public Institution

Table of Grants

Maximum Grant \$2,190

Gross Income	Number of Dependents				
	1	2	3	4	5 or more
\$0 - \$15,000	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190
\$15,001 - \$16,000	1,974	2,190	2,190	2,190	2,190
\$16,001 - \$17,000	1,740	1,974	2,190	2,190	2,190
\$17,001 - \$18,000	1,542	1,740	1,974	2,190	2,190
\$18,001 - \$19,000	1,320	1,542	1,740	1,974	2,190
\$19,001 - \$22,000	1,080	1,320	1,542	1,740	1,974
\$22,001 - \$25,000	864	1,080	1,320	1,542	1,740
\$25,001 - \$28,000	648	864	1,080	1,320	1,542
\$28,001 - \$31,000	522	648	864	1,080	1,320
\$31,001 - \$32,000	420	522	648	864	1,080
\$32,001 - \$33,000	384	420	522	648	864
\$33,001 - \$34,000	354	384	420	522	648
\$34,001 - \$35,000	174	354	384	420	522

\$35,001 - \$36,000	--	174	354	384	420
\$36,001 - \$37,000	--	--	174	354	384
\$37,001 - \$38,000	--	--	--	174	354
\$38,001 - \$39,000	--	--	--	--	174

For a full-time student who is financially independent and enrolled in a state-assisted educational institution, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Public Institution

Table of Grants

Maximum Grant \$2,190

Gross Income	Number of Dependents						
	0	1	2	3	4	5 or more	
\$0 - \$4,800	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190
\$4,801 - \$5,300		1,974	2,190	2,190	2,190	2,190	2,190
\$5,301 - \$5,800		1,740	2,082	2,190	2,190	2,190	2,190
\$5,801 - \$6,300		1,542	1,968	2,082	2,190	2,190	2,190
\$6,301 - \$6,800		1,320	1,866	1,968	2,082	2,190	2,190
\$6,801 - \$7,300		1,080	1,758	1,866	1,968	2,082	2,190
\$7,301 - \$8,300		864	1,638	1,758	1,866	1,968	2,082
\$8,301 - \$9,300		648	1,530	1,638	1,758	1,866	1,968
\$9,301 - \$10,300		522	1,422	1,530	1,638	1,758	1,866
\$10,301 - \$11,800		420	1,356	1,422	1,530	1,638	1,758
\$11,801 - \$13,300		384	1,308	1,356	1,422	1,530	1,638
\$13,301 - \$14,800		354	1,290	1,308	1,356	1,422	1,530
\$14,801 - \$16,300		174	1,164	1,290	1,308	1,356	1,422
\$16,301 - \$19,300	--		858	1,050	1,182	1,308	1,356
\$19,301 - \$22,300	--		540	750	948	1,062	1,200
\$22,301 - \$25,300	--		432	540	750	948	1,062
\$25,301 - \$30,300	--		324	432	540	750	948
\$30,301 - \$35,300	--		192	210	264	324	522

(D) For a full-time student enrolled in an eligible institution for a semester or quarter in addition to the portion of the academic year covered by a grant determined under division (C) of this

section, the maximum grant amount shall be a percentage of the maximum prescribed in the applicable table of that division. The maximum grant for a fourth quarter shall be one-third of the maximum amount prescribed under that division. The maximum grant for a third semester shall be one-half of the maximum amount prescribed under that division.

(E) No grant shall be made to any student in a course of study in theology, religion, or other field of preparation for a religious profession unless such course of study leads to an accredited bachelor of arts, bachelor of science, associate of arts, or associate of science degree.

(F)(1) Except as provided in division (F)(2) of this section, no grant shall be made to any student for enrollment during a fiscal year in an institution with a cohort default rate determined by the United States secretary of education pursuant to the "Higher Education Amendments of 1986," 100 Stat. 1278, 1408, 20 U.S.C.A. 1085, as amended, as of the fifteenth day of June preceding the fiscal year, equal to or greater than thirty per cent for each of the preceding two fiscal years.

(2) Division (F)(1) of this section does not apply to the following:

(a) Any student enrolled in an institution that under the federal law appeals its loss of eligibility for federal financial aid and the United States secretary of education determines its cohort default rate after recalculation is lower than the rate specified in division (F)(1) of this section or the secretary determines due to mitigating circumstances the institution may continue to participate in federal financial aid programs. The chancellor shall adopt rules requiring institutions to provide information regarding an appeal to the chancellor.

(b) Any student who has previously received a grant under this section who meets all other requirements of this section.

(3) The chancellor shall adopt rules for the notification of all institutions whose students will be ineligible to participate in the grant program pursuant to division (F)(1) of this section.

(4) A student's attendance at an institution whose students lose eligibility for grants under division (F)(1) of this section shall not affect that student's eligibility to receive a grant when enrolled in another institution.

(G) Institutions of higher education that enroll students receiving instructional grants under this section shall report to the chancellor all students who have received instructional grants but are no longer eligible for all or part of such grants and shall refund any moneys due the state within thirty days after the beginning of the quarter or term immediately following the quarter or term in which the student was no longer eligible to receive all or part of the student's grant. There shall be an interest charge of one per cent per month on all moneys due and payable after such thirty-day period. The chancellor shall immediately notify the office of budget and management and the legislative service commission of all refunds so received.

**Sec. 3333.121.** There is hereby established in the state treasury the state financial aid reconciliation fund, which shall consist of refunds of state financial aid payments originally disbursed by the department of higher education for programs that the department is responsible for administering. Revenues credited to the fund shall be used by the chancellor of higher education to pay to higher education institutions any outstanding obligations for state financial aid programs that are identified through the annual reconciliation and financial audit or through other means. Any amount in the fund that is in excess of the amount certified to the director of budget and management by the chancellor of higher education as necessary to reconcile payments under the program shall be

transferred to the general revenue fund.

**Sec. 3333.122.** (A) The chancellor of higher education shall adopt rules to carry out this section and as authorized under section 3333.123 of the Revised Code. The rules shall include definitions of the terms "resident," "expected family contribution," "full-time student," "three-quarters-time student," "half-time student," "one-quarter-time student," "state cost of attendance," and "accredited" for the purpose of those sections.

(B) Only an Ohio resident who meets both of the following is eligible for a grant awarded under this section:

(1) The resident has an expected family contribution of two thousand one hundred ninety or less;

(2) The resident enrolls in one of the following:

(a) An undergraduate program, or a nursing diploma program approved by the board of nursing under section 4723.06 of the Revised Code, at a state-assisted state institution of higher education, as defined in section 3345.12 of the Revised Code, that meets the requirements of Title VI of the Civil Rights Act of 1964;

(b) An undergraduate program, or a nursing diploma program approved by the board of nursing under section 4723.06 of the Revised Code, at a private, nonprofit institution in this state holding a certificate of authorization pursuant to Chapter 1713. of the Revised Code;

(c) An undergraduate program, or a nursing diploma program approved by the board of nursing under section 4723.06 of the Revised Code, at a career college in this state that holds a certificate of registration from the state board of career colleges and schools under Chapter 3332. of the Revised Code or at a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, if the program has a certificate of authorization pursuant to Chapter 1713. of the Revised Code.

(d) A comprehensive transition and postsecondary program that is certified by the United States department of education. For purposes of this section, a "comprehensive transition and postsecondary program" means a degree, certificate, or non-degree program that is designed to support persons with intellectual disabilities who are receiving academic, career, technical, and independent living instruction at an institution of higher education in order to prepare for gainful employment as defined in 20 U.S.C. 1140.

(C)(1) The chancellor shall establish and administer a needs-based financial aid grants program based on the United States department of education's method of determining financial need. The program shall be known as the Ohio college opportunity grant program. The general assembly shall support the needs-based financial aid program by such sums and in such manner as it may provide, but the chancellor also may receive funds from other sources to support the program. If, for any academic year, the amounts available for support of the program are inadequate to provide grants to all eligible students, the chancellor shall do one of the following:

(a) Give preference in the payment of grants based upon expected family contribution, beginning with the lowest expected family contribution category and proceeding upward by category to the highest expected family contribution category;

(b) Proportionately reduce the amount of each grant to be awarded for the academic year under this section;

(c) Use an alternate formula for such grants that addresses the shortage of available funds and has been submitted to and approved by the controlling board.

(2) The needs-based financial aid grant shall be paid to the eligible student through the institution in which the student is enrolled, except that no needs-based financial aid grant shall be paid to any person serving a term of imprisonment. Applications for the grants shall be made as prescribed by the chancellor, and such applications may be made in conjunction with and upon the basis of information provided in conjunction with student assistance programs funded by agencies of the United States government or from financial resources of the institution of higher education. The institution shall certify that the student applicant meets the requirements set forth in division (B) of this section. Needs-based financial aid grants shall be provided to an eligible student only as long as the student is making appropriate progress toward a nursing diploma, an associate or bachelor's degree, or completion of a comprehensive transition and postsecondary program. No student shall be eligible to receive a grant for more than ten semesters, fifteen quarters, or the equivalent of five academic years. A grant made to an eligible student on the basis of less than full-time enrollment shall be based on the number of credit hours for which the student is enrolled and shall be computed in accordance with a formula adopted by rule issued by the chancellor. No student shall receive more than one grant on the basis of less than full-time enrollment.

(D)(1) Except as provided in divisions (D)(4) and (5) of this section, no grant awarded under this section shall exceed the total state cost of attendance.

(2) Subject to divisions (D)(1), (3), (4), and (5) of this section, the chancellor shall determine the maximum per student award amount for each institutional sector by subtracting the sum of the maximum Pell grant and maximum expected family contribution amounts, as determined by the chancellor, from the average instructional and general fees charged by the institutional sector. The department of higher education shall publish on its web site an annual Ohio college opportunity award table. In no case, shall the grant amount for such a student exceed any maximum that the chancellor may set by rule.

(3) For a student enrolled for a semester or quarter in addition to the portion of the academic year covered by a grant under this section, the maximum grant amount shall be a percentage of the maximum specified in any table established in rules adopted by the chancellor as provided in division (A) of this section. The maximum grant for a fourth quarter shall be one-third of the maximum amount so prescribed. The maximum grant for a third semester shall be one-half of the maximum amount so prescribed.

(4) If a student is enrolled in a two-year institution of higher education and is eligible for an education and training voucher through the Ohio education and training voucher program that receives federal funding under the John H. Chafee foster care independence program, 42 U.S.C. 677, the amount of a grant awarded under this section may exceed the total state cost of attendance to additionally cover housing costs.

(5) For a student who is receiving federal veterans' benefits under the "All-Volunteer Force Educational Assistance Program," 38 U.S.C. 3001 et seq., or "Post-9/11 Veterans Educational Assistance Program," 38 U.S.C. 3301 et seq., or any successor program, the amount of a grant awarded under this section shall be applied toward the total state cost of attendance and the student's housing costs and living expenses. Living expenses shall include reasonable costs for room and

board.

(E) No grant shall be made to any student in a course of study in theology, religion, or other field of preparation for a religious profession unless such course of study leads to an accredited bachelor of arts, bachelor of science, associate of arts, or associate of science degree.

(F)(1) Except as provided in division (F)(2) of this section, no grant shall be made to any student for enrollment during a fiscal year in an institution with a cohort default rate determined by the United States secretary of education pursuant to the "Higher Education Amendments of 1986," 100 Stat. 1278, 1408, 20 U.S.C.A. 1085, as amended, as of the fifteenth day of June preceding the fiscal year, equal to or greater than thirty per cent for each of the preceding two fiscal years.

(2) Division (F)(1) of this section does not apply in the case of either of the following:

(a) The institution pursuant to federal law appeals its loss of eligibility for federal financial aid and the United States secretary of education determines its cohort default rate after recalculation is lower than the rate specified in division (F)(1) of this section or the secretary determines due to mitigating circumstances that the institution may continue to participate in federal financial aid programs. The chancellor shall adopt rules requiring any such appellant to provide information to the chancellor regarding an appeal.

(b) Any student who has previously received a grant pursuant to any provision of this section, including prior to the section's amendment by H.B. 1 of the 128th general assembly, effective July 17, 2009, and who meets all other eligibility requirements of this section.

(3) The chancellor shall adopt rules for the notification of all institutions whose students will be ineligible to participate in the grant program pursuant to division (F)(1) of this section.

(4) A student's attendance at any institution whose students are ineligible for grants due to division (F)(1) of this section shall not affect that student's eligibility to receive a grant when enrolled in another institution.

(G) Institutions of higher education that enroll students receiving needs-based financial aid grants under this section shall report to the chancellor all students who have received such needs-based financial aid grants but are no longer eligible for all or part of those grants and shall refund any moneys due the state within thirty days after the beginning of the quarter or term immediately following the quarter or term in which the student was no longer eligible to receive all or part of the student's grant. There shall be an interest charge of one per cent per month on all moneys due and payable after such thirty-day period. The chancellor shall immediately notify the office of budget and management and the legislative service commission of all refunds so received.

**Sec. 3333.123.** (A) As used in this section:

(1) "The Ohio college opportunity grant program" means the program established under section 3333.122 of the Revised Code.

(2) "Rules for the Ohio college opportunity grant program" means the rules authorized in division (R) of section 3333.04 of the Revised Code for the implementation of the program.

(B) In adopting rules for the Ohio college opportunity grant program, the chancellor of higher education may include provisions that give preferential or priority funding to low-income students who in their primary and secondary school work participate in or complete rigorous academic coursework, attain passing scores on the assessments prescribed in section 3301.0710 or 3301.0712 of the Revised Code, or meet other high academic performance standards determined by the



chancellor to reduce the need for remediation and ensure academic success at the postsecondary education level. Any such rules shall include a specification of procedures needed to certify student achievement of primary and secondary standards as well as the timeline for implementation of the provisions authorized by this section.

**Sec. 3333.124.** There is hereby created in the state treasury the Ohio college opportunity grant program reserve fund. As soon as possible following the end of each fiscal year, the chancellor of higher education shall certify to the director of budget and management the unencumbered balance of the general revenue fund appropriations made in the immediately preceding fiscal year for purposes of the Ohio college opportunity grant program created in section 3333.122 of the Revised Code. Upon receipt of the certification, the director of budget and management may transfer an amount not exceeding the certified amount from the general revenue fund to the Ohio college opportunity grant program reserve fund. Moneys in the Ohio college opportunity grant program reserve fund shall be used to pay grant obligations in excess of the general revenue fund appropriations made for that purpose.

The director of budget and management may transfer any unencumbered balance from the Ohio college opportunity grant program reserve fund to the general revenue fund.

If it is determined that general revenue fund appropriations are insufficient to meet the obligations of the Ohio college opportunity grant program in a fiscal year, the director of budget and management may transfer funds from the Ohio college opportunity grant program reserve fund to the general revenue fund in order to meet those obligations. The amount transferred is hereby appropriated. If the funds transferred from the Ohio college opportunity grant program reserve fund are not needed, the director of budget and management may transfer the unexpended balance from the general revenue fund back to the Ohio college opportunity grant program reserve fund.

**Sec. 3333.13.** (A) Money appropriated to the chancellor of the Ohio board of regents for the purposes of this division shall be paid at the times and in the amounts necessary to meet all payments required to be made by the chancellor to the Ohio public facilities commission pursuant to leases or agreements made under division (B) of section 154.21 of the Revised Code, as certified under division (C) of this section, including supplements to such certifications.

(B) The chancellor shall include in the estimate of proposed expenses submitted pursuant to section 126.02 of the Revised Code the estimated amounts of all such payments to be made by the chancellor. The chancellor shall include the estimated amounts of all such payments to be made by the chancellor in recommendations for appropriation required by division (J) of section 3333.04 of the Revised Code. The director of budget and management shall include in the state budget estimates provided for in section 126.02 of the Revised Code the estimated amount of all such payments to be made during the next biennium, and this amount shall be included in the state budget to be submitted by the governor to the general assembly pursuant to section 107.03 of the Revised Code.

(C) On the first day of July of each year, or as soon thereafter as is practicable, the chancellor or a vice-chancellor shall certify to the director the payments contracted to be made, during the period of the then current appropriations made for the purposes of division (A) of this section, to the commission by the chancellor pursuant to leases and agreements made under division (B) of section 154.21 of the Revised Code. The certification shall state the amounts and dates of payment required therefor and the amounts to be credited pursuant to such leases and agreements to the higher

education bond service trust fund and other special funds established pursuant to Chapter 154. of the Revised Code. If the director finds such certification to be correct, the director shall promptly add the director's certification thereto and submit it to the treasurer of state. Such annual certification shall be supplemented in similar manner upon the execution of each new lease or agreement, any supplement to an existing lease or agreement, or any amendment thereof, affecting the amounts of those payments.

**Sec. 3333.14.** Effective July 1, 1971, all public post high school technical education programs shall be operated by technical colleges, community colleges, university branches, state colleges, state-affiliated universities and state universities. Subject to rules and regulations adopted by the chancellor of higher education, the board of trustees or directors of one of the above such institutions shall adopt a plan of transition governing each public post high school technical education program not specifically identified or included in this section which is located in the geographic region of such institution as defined by the chancellor. The plan of transition shall provide for the dissolution of such technical education programs either by transfer of a program's lands, buildings, and equipment to one of the above such institutions or by complete termination of the technical education program.

**Sec. 3333.15.** If the board of trustees of a state university fails to undertake appropriate action to establish a university branch campus within one year from the enactment of a capital improvement appropriation for the development of such university branch facility, the chancellor of higher education may act as the chancellor deems necessary in place of the board of trustees, including securing the release of construction planning and construction contract funds from the state controlling board. If the chancellor takes action to plan and construct a university branch in accordance with this section, the officers and staff of such university shall perform all necessary functions incident to the planning and construction of such university branch as directed by the chancellor.

**Sec. 3333.16.** As used in this section "state institution of higher education" means an institution of higher education as defined in section 3345.12 of the Revised Code.

(A) The chancellor of higher education shall do all of the following:

(1) Establish policies and procedures applicable to all state institutions of higher education that ensure that students can begin higher education at any state institution of higher education and transfer coursework and degrees to any other state institution of higher education without unnecessary duplication or institutional barriers. The purpose of this requirement is to allow students to attain their highest educational aspirations in the most efficient and effective manner for the students and the state. These policies and procedures shall require state institutions of higher education to make changes or modifications, as needed, to strengthen course content so as to ensure equivalency for that course at any state institution of higher education.

(2) Develop and implement a universal course equivalency classification system for state institutions of higher education so that the transfer of students and the transfer and articulation of equivalent courses or specified learning modules or units completed by students are not inhibited by inconsistent judgment about the application of transfer credits. Coursework completed within such a system at one state institution of higher education and transferred to another institution shall be applied to the student's degree objective in the same manner as equivalent coursework completed at

the receiving institution.

(3) Develop a system of transfer policies that ensure that graduates with associate degrees which include completion of approved transfer modules shall be admitted to a state institution of higher education, shall be able to compete for admission to specific programs on the same basis as students native to the institution, and shall have priority over out-of-state associate degree graduates and transfer students. To assist a student in advising and transferring, all state institutions of higher education shall fully implement the information system for advising and transferring selected by, contracted for, or developed by the chancellor.

(4) Examine the feasibility of developing a transfer marketing agenda that includes materials and interactive technology to inform the citizens of Ohio about the availability of transfer options at state institutions of higher education and to encourage adults to return to colleges and universities for additional education;

(5) Study, in consultation with the state board of career colleges and schools, and in light of existing criteria and any other criteria developed by the articulation and transfer advisory council, the feasibility of credit recognition and transferability to state institutions of higher education for graduates who have received associate degrees from a career college or school with a certificate of registration from the state board of career colleges and schools under Chapter 3332. of the Revised Code.

(B) All provisions of the existing articulation and transfer policy developed by the chancellor shall remain in effect except where amended by this section.

(C) Not later than December 1, 2018, the chancellor shall update and implement the policies and procedures established pursuant to this section to ensure that any associate degree offered at a state institution of higher education may be transferred and applied to a bachelor degree program in an equivalent field at any other state institution of higher education without unnecessary duplication or institutional barriers. The policies and procedures shall ensure that each transferred associate degree applies to the student's degree objective in the same manner as equivalent coursework completed by the student at the receiving institution.

When updating and implementing the policies and procedures pursuant to this division, the chancellor shall seek input from faculty and academic leaders in each academic field or discipline.

**Sec. 3333.161.** (A) As used in this section:

(1) "Articulation agreement" means an agreement between two or more state institutions of higher education to facilitate the transfer of students and credits between such institutions.

(2) "State institution of higher education" and "state university" have the same meanings as in section 3345.011 of the Revised Code.

(3) "Two year college" includes a community college, state community college, technical college, and university branch.

(B) The chancellor of higher education shall adopt rules establishing a statewide system for articulation agreements among state institutions of higher education for transfer students pursuing teacher education programs. The rules shall require an articulation agreement between institutions to include all of the following:

(1) The development of a transfer module for teacher education that includes introductory level courses that are evaluated as appropriate by faculty employed by the state institutions of higher

education that are parties to the articulation agreement;

(2) A foundation of general studies courses that have been identified as part of the transfer module for teacher education and have been evaluated as appropriate for the preparation of teachers and consistent with the academic content standards adopted under section 3301.079 of the Revised Code;

(3) A clear identification of university faculty who are partnered with two year college faculty;

(4) The publication of the articulation agreement that is available to all students, faculty, and staff.

**Sec. 3333.162.** (A) As used in this section, "state institution of higher education" means an institution of higher education as defined in section 3345.12 of the Revised Code.

(B) By April 15, 2007, the chancellor of higher education, in consultation with the department of education, public adult and secondary career-technical education institutions, and state institutions of higher education, shall establish criteria, policies, and procedures that enable students to transfer agreed upon technical courses completed through an adult career-technical education institution, a public secondary career-technical institution, or a state institution of higher education to a state institution of higher education without unnecessary duplication or institutional barriers. The courses to which the criteria, policies, and procedures apply shall be those that adhere to recognized industry standards and equivalent coursework common to the secondary career pathway and adult career-technical education system and regionally accredited state institutions of higher education. Where applicable, the policies and procedures shall build upon the articulation agreement and transfer initiative course equivalency system required by section 3333.16 of the Revised Code.

**Sec. 3333.163.** (A) As used in this section, "state institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

(B) Not later than April 15, 2008, the articulation and transfer advisory council of the chancellor of higher education shall recommend to the chancellor standards for awarding course credit toward degree requirements at state institutions of higher education based on scores attained on advanced placement examinations. The recommended standards shall include a score on each advanced placement examination that the council considers to be a passing score for which course credit may be awarded. Upon adoption of the standards by the chancellor, each state institution of higher education shall comply with the standards in awarding course credit to any student enrolled in the institution who has attained a passing score on an advanced placement examination.

**Sec. 3333.164.** (A) As used in this section, "state institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

(B) Not later than December 31, 2014, the chancellor of higher education shall do all of the following with regard to the awarding of college credit for military training, experience, and coursework:

(1) Develop a set of standards and procedures for state institutions of higher education to utilize in the granting of college credit for military training, experience, and coursework;

(2) Create a military articulation and transfer assurance guide for college credit that is earned through military training, experience, and coursework. The chancellor shall use the current articulation and transfer policy adopted pursuant to section 3333.16 of the Revised Code as a model

in developing this guide.

(3) Create a web site that contains information related to the awarding of college credit for military training, experience, and coursework. The web site shall include both of the following:

(a) Standardized resources that address frequently asked questions regarding the awarding of such credit and related issues;

(b) A statewide database that shows how specified military training, experience, and coursework translates to college credit.

(4) Develop a statewide training program that prepares faculty and staff of state institutions of higher education to evaluate various military training, experience, and coursework and to award appropriate equivalent credit. The training program shall incorporate the best practices of awarding credit for military experiences, including both the recommendations of the American council on education and the standards developed by the council for adult and experiential learning.

(C) Beginning on July 1, 2015, state institutions of higher education shall ensure that appropriate equivalent credit is awarded for military training, experience, and coursework that meet the standards developed by the chancellor pursuant to this section.

**Sec. 3333.165.**

**Sec. 3333.17.** The chancellor of higher education may enter into contracts with the appropriate agency in a contiguous state whereby the agency provides for charging Ohio residents enrolled in state-assisted post-secondary educational institutions in the contiguous state, tuition and fees at rates no higher than the rates charged to students who are residents of that state, and whereby the chancellor, as part of such contracts, may provide that rates for tuition and fees charged to residents of the contiguous state who are enrolled in state-assisted post-secondary educational institutions in Ohio shall not exceed those charged Ohio residents.

State-assisted post-secondary educational institutions in Ohio may enter into contracts with appropriate state-assisted post-secondary educational institutions in a contiguous state whereby the state-assisted post-secondary educational institution provides for charging Ohio residents enrolled in the institution in the contiguous state, tuition and fees at rates no higher than the rates charged to students who are residents of that state, and whereby the Ohio state-assisted post-secondary institution, as part of such contracts, may provide that rates for tuition and fees charged to residents of the contiguous state who are enrolled in the state-assisted post-secondary educational institutions in Ohio shall not exceed those charged Ohio residents.

The contracts entered into by the chancellor or a state-assisted post-secondary educational institution may limit the type of academic program offered at the reciprocal rates. Residents of contiguous states enrolled in for credit courses taught at the main campus and identified off-campus sites at state-assisted post-secondary educational institutions in Ohio under such contracts shall be included in calculating the number of full-time equivalent students for state subsidy purposes. The chancellor and each state-assisted post-secondary educational institution shall periodically assess the costs and benefits of each such contract and the extent to which parity is achieved between Ohio and the contiguous state with respect to students benefiting from the contract. All Ohio state-assisted post-secondary educational institutions participating in these contracts shall report enrollments and other information annually to the chancellor. No contract shall be entered into under this section without the approval of the chancellor. The chancellor shall report the status of these contracts to the

controlling board annually.

**Sec. 3333.171.** (A) The chancellor of higher education may enter into a reciprocity agreement with the midwestern higher education compact whereby the agreement provides for both of the following:

(1) A participating institution in Ohio may enroll residents of a participating state in distance education programs at that institution without attaining prior approval from the appropriate agency of that participating state.

(2) A participating institution in another state may enroll Ohio residents in distance education programs at that institution without attaining prior approval from the chancellor.

(B) Under the terms of an agreement, the chancellor may do any of the following:

(1) Apply on behalf of the state of Ohio to become an eligible state to participate in the agreement;

(2) Designate the department of higher education as the lead agency to ensure that Ohio meets the eligibility requirements of the agreement, as determined by the midwestern higher education compact;

(3) Develop criteria and procedures for eligible institutions in Ohio to apply to participate in the agreement and for their continued participation in the agreement;

(4) Assess and collect fees, pursuant to rules adopted by the chancellor under Chapter 119. of the Revised Code, from participating institutions in Ohio;

(5) Collect annual data, as prescribed by the chancellor or as required by the midwestern higher education compact, from participating institutions in Ohio;

(6) Develop a student grievance process to resolve complaints brought against participating institutions in Ohio in regard to the distance education programs that are eligible under the terms of the agreement;

(7) Work collaboratively with the state board of career colleges and schools to determine the eligibility of institutions authorized by that agency under section 3332.05 of the Revised Code for initial and continued participation in the agreement;

(8) Perform other duties and responsibilities as required for participation in the agreement.

(C) Any eligible institution in Ohio that wishes to participate in the agreement entered into under this section shall first attain approval for inclusion in the agreement from the chancellor. Thereafter, a participating institution in Ohio shall attain approval from the chancellor for any new distance education programs offered by that institution prior to enrolling residents of a participating state in such programs under the terms of the agreement.

(D) All other post-secondary activity that requires the chancellor's approval and is not included under the terms of the agreement entered into under this section is subject to the chancellor's review and approval pursuant to Chapters 1713. and 3333. of the Revised Code.

(E) The chancellor may terminate the agreement entered into under this section or remove the department as the lead agency on the agreement, if the chancellor determines that the agreement is not in the best interest of the state or the board.

(F) For purposes of this section:

(1) "Eligible institution in Ohio" is any of the following types of institutions, as long as it is degree-granting and is accredited by an accrediting agency recognized by the United States secretary

of education:

(a) A state institution of higher education as defined in section 3345.011 of the Revised Code;  
(b) An Ohio institution of higher education that has received a certificate of authorization pursuant to Chapter 1713. of the Revised Code;

(c) An Ohio institution of higher education authorized by the state board of career colleges and schools under section 3332.05 of the Revised Code.

(2) "Participating institution in Ohio" is any "eligible institution in Ohio" that has been approved by the chancellor for participation in the agreement entered into under this section.

(3) "Participating institution in another state" is any institution of higher education that is located outside of Ohio that meets the eligibility requirements under the terms of a similar reciprocity agreement and is approved by the appropriate agency of that institution's home state to participate in an agreement entered into with the midwestern higher education compact, the New England board of higher education, the southern regional education board, or the western interstate commission for higher education.

**Sec. 3333.18.** The chancellor of higher education may enter into contracts with the appropriate agency in a contiguous state whereby financial aids from the funds of each state may be used by qualified student recipients to attend approved post-secondary educational institutions in the other state. Approved institutions in Ohio are those that are state-assisted or are nonprofit and have received certificates of authorization pursuant to Chapter 1713. of the Revised Code, or are private institutions exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code. Eligible post-secondary educational institutions in the contiguous state shall be similarly approved by the appropriate agency of that state. In formulating and executing such contracts with a contiguous state, the chancellor shall assure that the total cost to this state approximates the total cost to the contiguous state. Any contract entered into under this section shall be subject to the periodic review of, and approval by, the controlling board.

**Sec. 3333.19.** The chancellor of higher education may enter into agreements with the appropriate agency in a foreign country or with an agency or organization sponsoring foreign student exchanges under which the agency or organization ensures that Ohio residents enrolled in post-secondary educational institutions in the foreign country will pay tuition and fees at rates no higher than the rates charged to students who are residents of that country and under which the chancellor provides that rates for tuition and fees charged to a comparable number of students from the foreign country who are enrolled in state-assisted institutions of higher education in Ohio are to be no higher than the rates charged to students who are Ohio residents. Notwithstanding that an Ohio resident is enrolled in a post-secondary educational institution in a foreign country under one of these agreements, any such student who was previously enrolled in a state-assisted institution shall be counted as enrolled in such institution for state subsidy purposes in a manner prescribed by rules the chancellor shall adopt.

**Sec. 3333.20.** (A) The chancellor of higher education shall adopt educational service standards that shall apply to all community colleges, university branches, technical colleges, and state community colleges established under Chapters 3354., 3355., 3357., and 3358. of the Revised Code, respectively. These standards shall provide for such institutions to offer or demonstrate at least the following:

(1) An appropriate range of career or technical programs designed to prepare individuals for employment in specific careers at the technical or paraprofessional level;

(2) Commitment to an effective array of developmental education services providing opportunities for academic skill enhancement;

(3) Partnerships with industry, business, government, and labor for the retraining of the workforce and the economic development of the community;

(4) Noncredit continuing education opportunities;

(5) College transfer programs or the initial two years of a baccalaureate degree for students planning to transfer to institutions offering baccalaureate programs;

(6) Linkages with high schools to ensure that graduates are adequately prepared for post-secondary instruction;

(7) Student access provided according to a convenient schedule and program quality provided at an affordable price;

(8) That student fees charged by any institution are as low as possible, especially if the institution is being supported by a local tax levy;

(9) A high level of community involvement in the decision-making process in such critical areas as course delivery, range of services, fees and budgets, and administrative personnel.

(B) The chancellor shall consult with representatives of state-assisted colleges and universities, as defined in section 3333.041 of the Revised Code, in developing appropriate methods for achieving or maintaining the standards adopted pursuant to division (A) of this section.

(C) In considering institutions that are co-located, the chancellor shall apply the standards to them in two manners:

(1) As a whole entity;

(2) As separate entities, applying the standards separately to each.

When distributing any state funds among institutions based on the degree to which they meet the standards, the chancellor shall provide to institutions that are co-located the higher amount produced by the two judgments under divisions (C)(1) and (2) of this section.

**Sec. 3333.21.** As used in sections 3333.21 to 3333.23 of the Revised Code, "term" and "academic year" mean "term" and "academic year" as defined by the chancellor of higher education.

The chancellor shall establish and administer an academic scholarship program. Under the program, a total of one thousand new scholarships shall be awarded annually in the amount of not less than two thousand dollars per award. At least one such new scholarship shall be awarded annually to a student in each public high school and joint vocational school and each nonpublic high school for which the state board of education prescribes minimum standards in accordance with section 3301.07 of the Revised Code.

To be eligible for the award of a scholarship, a student shall be a resident of Ohio and shall be enrolled as a full-time undergraduate student in an Ohio institution of higher education that meets the requirements of Title VI of the "Civil Rights Act of 1964" and is state-assisted, is nonprofit and holds a certificate of authorization issued under section 1713.02 of the Revised Code, is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, or holds a certificate of registration and program authorization issued under section 3332.05 of the Revised Code and awards an associate or bachelor's degree. Students



who attend an institution holding a certificate of registration shall be enrolled in a program leading to an associate or bachelor's degree for which associate or bachelor's degree program the institution has program authorization to offer the program issued under section 3332.05 of the Revised Code.

"Resident" and "full-time student" shall be defined in rules adopted by the chancellor.

The chancellor shall award the scholarships on the basis of a formula designed by the chancellor to identify students with the highest capability for successful college study. The formula shall weigh the factor of achievement, as measured by grade point average, and the factor of ability, as measured by performance on a competitive examination specified by the chancellor. Students receiving scholarships shall be known as "Ohio academic scholars."

**Sec. 3333.22.** Each Ohio academic scholarship shall be awarded for an academic year and may be renewed for each of three additional academic years. The scholarship amount awarded to a scholar for an academic year shall be not less than two thousand dollars. A scholarship shall be renewed if the scholar maintains an academic record satisfactory to the chancellor of higher education and meets any of the following conditions:

(A) The scholar is enrolled as a full-time undergraduate;

(B) The scholar was awarded an undergraduate degree in less than four academic years and is enrolled as a full-time graduate or professional student in an Ohio institution of higher education that meets the requirements of Title VI of the "Civil Rights Act of 1964" and is state-assisted or is nonprofit and holds a certificate of authorization issued under section 1713.02 of the Revised Code;

(C) The scholar is a full-time student concurrently enrolled as an undergraduate student and as a graduate or professional student in an Ohio institution of higher education that meets the requirements of division (B) of this section.

Each amount awarded shall be paid in equal installments to the scholar at the time of enrollment for each term of the academic year for which the scholarship is awarded or renewed. No scholar is eligible to receive an Ohio academic scholarship for more than the equivalent of four academic years.

If an Ohio academic scholar is temporarily unable to attend school because of illness or other cause satisfactory to the chancellor, the chancellor may grant a leave of absence for a designated period of time. If a scholar discontinues full-time attendance at the scholar's school during a term because of illness or other cause satisfactory to the chancellor, the scholar may either claim a prorated payment for the period of actual attendance or waive payment for that term. A term for which prorated payment is made shall be considered a full term for which a scholarship was received. A term for which payment is waived shall not be considered a term for which a scholarship was received.

Receipt of an Ohio academic scholarship shall not affect a scholar's eligibility for the Ohio instructional grant program.

**Sec. 3333.23.** At the end of each term, each Ohio academic scholar shall request the registrar of the school to send a copy of the scholar's scholastic record to the chancellor of higher education. If the scholar's record fails to meet the standards established by the chancellor, further payments shall be suspended until the scholar demonstrates promise of successful progress in the academic program for which the award was made. The chancellor may revoke the scholarship if the scholar does not resume successful academic progress within a reasonable time.

**Sec. 3333.25.** There is hereby created the Ohio academic scholarship payment fund, which shall be in the custody of the treasurer of state but shall not be a part of the state treasury. The fund shall consist of all moneys appropriated for the fund by the general assembly and other moneys otherwise made available to the fund. The payment fund shall be used for the payment of Ohio academic scholarships or for additional scholarships to recognize outstanding academic achievement and ability. The chancellor of higher education shall administer this section and establish rules for the distribution and awarding of any additional scholarships.

The chancellor may direct the treasurer of state to invest any moneys in the payment fund not currently needed for scholarship payments, in any kinds of investments in which moneys of the public employees retirement system may be invested.

The instruments of title of all investments shall be delivered to the treasurer of state or to a qualified trustee designated by the treasurer of state as provided in section 135.18 of the Revised Code. The treasurer of state shall collect both principal and investment earnings on all investments as they become due and pay them into the fund.

All deposits to the fund shall be made in financial institutions of this state secured as provided in section 135.18 of the Revised Code.

**Sec. 3333.26.** (A) Any citizen of this state who has resided within the state for one year, who was in the active service of the United States as a soldier, sailor, nurse, or marine between April 6, 1917, and November 11, 1918, and who has been honorably discharged from that service, shall be admitted to any school, college, or university that receives state funds in support thereof, without being required to pay any tuition or matriculation fee, but is not relieved from the payment of laboratory or similar fees.

(B)(1) As used in this division:

(a) "Volunteer firefighter" has the meaning as in division (B)(1) of section 146.01 of the Revised Code.

(b) "Public service officer" means an Ohio firefighter, volunteer firefighter, police officer, member of the state highway patrol, employee designated to exercise the powers of police officers pursuant to section 1545.13 of the Revised Code, or other peace officer as defined by division (B) of section 2935.01 of the Revised Code, or a person holding any equivalent position in another state.

(c) "Qualified former spouse" means the former spouse of a public service officer, or of a member of the armed services of the United States, who is the custodial parent of a minor child of that marriage pursuant to an order allocating the parental rights and responsibilities for care of the child issued pursuant to section 3109.04 of the Revised Code.

(d) "Operation enduring freedom" means that period of conflict which began October 7, 2001, and ends on a date declared by the president of the United States or the congress.

(e) "Operation Iraqi freedom" means that period of conflict which began March 20, 2003, and ends on a date declared by the president of the United States or the congress.

(f) "Combat zone" means an area that the president of the United States by executive order designates, for purposes of 26 U.S.C. 112, as an area in which armed forces of the United States are or have engaged in combat.

(2) Any resident of this state who is under twenty-six years of age, or under thirty years of age if the resident has been honorably discharged from the armed services of the United States, who

is the child of a public service officer killed in the line of duty or of a member of the armed services of the United States killed in the line of duty during operation enduring freedom or operation Iraqi freedom, and who is admitted to any state university or college as defined in division (A)(1) of section 3345.12 of the Revised Code, community college, state community college, university branch, or technical college shall not be required to pay any tuition or any student fee for up to four academic years of education, which shall be at the undergraduate level.

A child of a member of the armed services of the United States killed in the line of duty during operation enduring freedom or operation Iraqi freedom is eligible for a waiver of tuition and student fees under this division only if the student is not eligible for a war orphans scholarship authorized by Chapter 5910. of the Revised Code. In any year in which the war orphans scholarship board reduces the percentage of tuition covered by a war orphans scholarship below one hundred per cent pursuant to division (A) of section 5910.04 of the Revised Code, the waiver of tuition and student fees under this division for a child of a member of the armed services of the United States killed in the line of duty during operation enduring freedom or operation Iraqi freedom shall be reduced by the same percentage.

(3) Any resident of this state who is the spouse or qualified former spouse of a public service officer killed in the line of duty, and who is admitted to any state university or college as defined in division (A)(1) of section 3345.12 of the Revised Code, community college, state community college, university branch, or technical college, shall not be required to pay any tuition or any student fee for up to four academic years of education, which shall be at the undergraduate level.

(4) Any resident of this state who is the spouse or qualified former spouse of a member of the armed services of the United States killed in the line of duty while serving in a combat zone after May 7, 1975, and who is admitted to any state university or college as defined in division (A)(1) of section 3345.12 of the Revised Code, community college, state community college, university branch, or technical college, shall not be required to pay any tuition or any student fee for up to four years of academic education, which shall be at the undergraduate level. In order to qualify under division (B)(4) of this section, the spouse or qualified former spouse shall have been a resident of this state at the time the member was killed in the line of duty.

(C) Any institution that is not subject to division (B) of this section and that holds a valid certificate of registration issued under Chapter 3332. of the Revised Code, a valid certificate issued under Chapter 4709. of the Revised Code, or a valid license issued under Chapter 4713. of the Revised Code, or that is nonprofit and has a certificate of authorization issued under section 1713.02 of the Revised Code, or that is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, which reduces tuition and student fees of a student who is eligible to attend an institution of higher education under the provisions of division (B) of this section by an amount indicated by the chancellor of higher education shall be eligible to receive a grant in that amount from the chancellor.

Each institution that enrolls students under division (B) of this section shall report to the chancellor, by the first day of July of each year, the number of students who were so enrolled and the average amount of all such tuition and student fees waived during the preceding year. The chancellor shall determine the average amount of all such tuition and student fees waived during the preceding year. The average amount of the tuition and student fees waived under division (B) of this section

during the preceding year shall be the amount of grants that participating institutions shall receive under this division during the current year, but no grant under this division shall exceed the tuition and student fees due and payable by the student prior to the reduction referred to in this division. The grants shall be made for four years of undergraduate education of an eligible student.

**Sec. 3333.28.** (A) The chancellor of higher education shall establish the nurse education assistance program, the purpose of which shall be to make loans to students enrolled in prelicensure nurse education programs at institutions approved by the board of nursing under section 4723.06 of the Revised Code and postlicensure nurse education programs approved by the chancellor under section 3333.04 of the Revised Code or offered by an institution holding a certificate of authorization issued under Chapter 1713. of the Revised Code. The board of nursing shall assist the chancellor in administering the program.

(B) There is hereby created in the state treasury the nurse education assistance fund, which shall consist of all money transferred to it pursuant to section 4743.05 of the Revised Code. The fund shall be used by the chancellor for loans made under division (A) of this section and for expenses of administering the loan program.

(C) Between July 1, 2005, and January 1, 2012, the chancellor shall distribute money in the nurse education assistance fund in the following manner:

(1)(a) Fifty per cent of available funds shall be awarded as loans to registered nurses enrolled in postlicensure nurse education programs described in division (A) of this section. To be eligible for a loan, the applicant shall provide the chancellor with a letter of intent to practice as a faculty member at a prelicensure or postlicensure program for nursing in this state upon completion of the applicant's academic program.

(b) If the borrower of a loan under division (C)(1)(a) of this section secures employment as a faculty member of an approved nursing education program in this state within six months following graduation from an approved nurse education program, the chancellor may forgive the principal and interest of the student's loans received under division (C)(1)(a) of this section at a rate of twenty-five per cent per year, for a maximum of four years, for each year in which the borrower is so employed. A deferment of the service obligation, and other conditions regarding the forgiveness of loans may be granted as provided by the rules adopted under division (D)(7) of this section.

(c) Loans awarded under division (C)(1)(a) of this section shall be awarded on the basis of the student's expected family contribution, with preference given to those applicants with the lowest expected family contribution. However, the chancellor may consider other factors the chancellor determines relevant in ranking the applications.

(d) Each loan awarded to a student under division (C)(1)(a) of this section shall be not less than five thousand dollars per year.

(2) Twenty-five per cent of available funds shall be awarded to students enrolled in prelicensure nurse education programs for registered nurses, as defined in section 4723.01 of the Revised Code.

(3) Twenty-five per cent of available funds shall be awarded to students enrolled in nurse education programs as determined by the chancellor, with preference given to programs aimed at increasing enrollment in an area of need.

After January 1, 2012, the chancellor shall determine the manner in which to distribute loans

under this section.

(D) Subject to the requirements specified in division (C) of this section, the chancellor shall adopt rules in accordance with Chapter 119. of the Revised Code establishing:

- (1) Eligibility criteria for receipt of a loan;
- (2) Loan application procedures;
- (3) The amounts in which loans may be made and the total amount that may be loaned to an individual;
- (4) The total amount of loans that can be made each year;
- (5) The percentage of the money in the fund that must remain in the fund at all times as a fund balance;
- (6) Interest and principal repayment schedules;
- (7) Conditions under which a portion of principal and interest obligations incurred by an individual under the program will be forgiven;
- (8) Conditions under which all or a portion of the principal and interest obligations incurred by an individual who is deployed on active duty outside of the state or who is the spouse of a person deployed on active duty outside of the state may be deferred or forgiven.
- (9) Ways that the program may be used to encourage individuals who are members of minority groups to enter the nursing profession;
- (10) Any other matters incidental to the operation of the program.

(E) The obligation to repay a portion of the principal and interest on a loan made under this section shall be forgiven if the recipient of the loan meets the criteria for forgiveness established by division (C)(1)(b) of this section, in the case of loans awarded under division (C)(1)(a) of this section, or by the chancellor under the rule adopted under division (D)(7) of this section, in the case of other loans awarded under this section.

(F) The obligation to repay all or a portion of the principal and interest on a loan made under this section may be deferred or forgiven if the recipient of the loan meets the criteria for deferment or forgiveness established by the chancellor under the rule adopted under division (D)(8) of this section.

(G) The receipt of a loan under this section shall not affect a student's eligibility for assistance, or the amount of that assistance, granted under section 3333.12, 3333.122, 3333.22, 3333.26, 5910.03, 5910.032, or 5919.34 of the Revised Code, but the rules of the chancellor may provide for taking assistance received under those sections into consideration when determining a student's eligibility for a loan under this section.

(H) As used in this section, "active duty" means active duty pursuant to an executive order of the president of the United States, an act of the congress of the United States, or section 5919.29 or 5923.21 of the Revised Code.

**Sec. 3333.29.** (A) As used in this section, "state institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

(B) The chancellor of higher education shall establish, within the Ohio skills bank, a mechanism to facilitate communication, cooperation, and partnerships among state institutions of higher education with nursing education programs and between state institutions of higher education and hospitals in this state to meet regional and statewide nursing education needs.

**Sec. 3333.30.** The chancellor of higher education may enter into an agreement with private

entities to provide log-in access or an internet link to free career information for students via the web site maintained by the chancellor. A log-in access or internet link authorized under this section shall not be considered an advertisement, endorsement, or sponsorship for purposes of the regulation of state-controlled web sites under any section of the Revised Code, any rule of the Administrative Code, or any other policy or directive adopted or issued by the office of information technology or any other state agency.

**Sec. 3333.31.** (A) For state subsidy and tuition surcharge purposes, status as a resident of Ohio shall be defined by the chancellor of higher education by rule promulgated pursuant to Chapter 119. of the Revised Code. No adjudication as to the status of any person under such rule, however, shall be required to be made pursuant to Chapter 119. of the Revised Code. The term "resident" for these purposes shall not be equated with the definition of that term as it is employed elsewhere under the laws of this state and other states, and shall not carry with it any of the legal connotations appurtenant thereto. Rather, except as provided in divisions (B), (C), and (E) of this section, for such purposes, the rule promulgated under this section shall have the objective of excluding from treatment as residents those who are present in the state primarily for the purpose of attending a state-supported or state-assisted institution of higher education, and may prescribe presumptive rules, rebuttable or conclusive, as to such purpose based upon the source or sources of support of the student, residence prior to first enrollment, evidence of intention to remain in the state after completion of studies, or such other factors as the chancellor deems relevant.

(B) The rules of the chancellor for determining student residency shall grant residency status to a veteran and to the veteran's spouse and any dependent of the veteran, if both of the following conditions are met:

(1) The veteran either:

(a) Served one or more years on active military duty and was honorably discharged or received a medical discharge that was related to the military service;

(b) Was killed while serving on active military duty or has been declared to be missing in action or a prisoner of war.

(2) If the veteran seeks residency status for tuition surcharge purposes, the veteran has established domicile in this state as of the first day of a term of enrollment in an institution of higher education. If the spouse or a dependent of the veteran seeks residency status for tuition surcharge purposes, the veteran and the spouse or dependent seeking residency status have established domicile in this state as of the first day of a term of enrollment in an institution of higher education, except that if the veteran was killed while serving on active military duty, has been declared to be missing in action or a prisoner of war, or is deceased after discharge, only the spouse or dependent seeking residency status shall be required to have established domicile in accordance with this division.

(C) The rules of the chancellor for determining student residency shall grant residency status to both of the following:

(1) A veteran who is the recipient of federal veterans' benefits under the "All-Volunteer Force Educational Assistance Program," 38 U.S.C. 3001 et seq., or "Post-9/11 Veterans Educational Assistance Program," 38 U.S.C. 3301 et seq., or any successor program, if the veteran meets all of the following criteria:

(a) The veteran served at least ninety days on active duty.

(b) The veteran enrolls in a state institution of higher education, as defined in section 3345.011 of the Revised Code.

(c) The veteran lives in the state as of the first day of a term of enrollment in the state institution of higher education.

(2) A person who is the recipient of the federal Marine Gunnery Sergeant John David Fry scholarship or transferred federal veterans' benefits under any of the programs described in division (C)(1) of this section, if the person meets both of the following criteria:

(a) The person enrolls in a state institution of higher education.

(b) The person lives in the state as of the first day of a term of enrollment in the state institution of higher education.

In order for a person using transferred federal veterans' benefits to qualify under division (C)(2) of this section, the veteran who transferred the benefits must have served at least ninety days on active duty or the service member who transferred the benefits must be on active duty.

(D) The rules of the chancellor for determining student residency shall not deny residency status to a student who is either a dependent child of a parent, or the spouse of a person who, as of the first day of a term of enrollment in an institution of higher education, has accepted full-time employment and established domicile in this state for reasons other than gaining the benefit of favorable tuition rates.

Documentation of full-time employment and domicile shall include both of the following documents:

(1) A sworn statement from the employer or the employer's representative on the letterhead of the employer or the employer's representative certifying that the parent or spouse of the student is employed full-time in Ohio;

(2) A copy of the lease under which the parent or spouse is the lessee and occupant of rented residential property in the state, a copy of the closing statement on residential real property of which the parent or spouse is the owner and occupant in this state or, if the parent or spouse is not the lessee or owner of the residence in which the parent or spouse has established domicile, a letter from the owner of the residence certifying that the parent or spouse resides at that residence.

Residency officers may also evaluate, in accordance with the chancellor's rule, requests for immediate residency status from dependent students whose parents are not living and whose domicile follows that of a legal guardian who has accepted full-time employment and established domicile in the state for reasons other than gaining the benefit of favorable tuition rates.

(E)(1) The rules of the chancellor for determining student residency shall grant residency status to a person who, while a resident of this state for state subsidy and tuition surcharge purposes, graduated from a high school in this state or completed the final year of instruction at home as authorized under section 3321.04 of the Revised Code, if the person enrolls in an institution of higher education and establishes domicile in this state, regardless of the student's residence prior to that enrollment.

(2) The rules of the chancellor for determining student residency shall not grant residency status to an alien if the alien is not also an immigrant or a nonimmigrant.

(F) As used in this section:

(1) "Dependent," "domicile," "institution of higher education," and "residency officer" have the meanings ascribed in the chancellor's rules adopted under this section.

(2) "Alien" means a person who is not a United States citizen or a United States national.

(3) "Immigrant" means an alien who has been granted the right by the United States bureau of citizenship and immigration services to reside permanently in the United States and to work without restrictions in the United States.

(4) "Nonimmigrant" means an alien who has been granted the right by the United States bureau of citizenship and immigration services to reside temporarily in the United States.

(5) "Veteran" means any person who has completed service in the uniformed services, as defined in section 3511.01 of the Revised Code.

(6) "Service member" has the same meaning as in section 5903.01 of the Revised Code.

**Sec. 3333.33.** (A) A community college established under Chapter 3354. of the Revised Code, state community college established under Chapter 3358. of the Revised Code, or technical college established under Chapter 3357. of the Revised Code may establish a tuition guarantee program, subject to approval of the chancellor of higher education.

(B) The chancellor shall establish guidelines for the board of trustees of a community college, state community college, or technical college to follow when developing a tuition guarantee program and submitting applications to the chancellor.

**Sec. 3333.34.** (A) As used in this section:

(1) "Pre-college stackable certificate" means a certificate earned before an adult is enrolled in an institution of higher education that can be transferred to college credit based on standards established by the chancellor of higher education and the department of education.

(2) "College-level certificate" means a certificate earned while an adult is enrolled in an institution of higher education that can be transferred to college credit based on standards established by the chancellor and the department of education.

(B) The chancellor and the department of education shall create a system of pre-college stackable certificates to provide a clear and accessible path for adults seeking to advance their education. The system shall do all of the following:

(1) Be uniform across the state;

(2) Be available from an array of providers, including adult career centers, institutions of higher education, and employers;

(3) Be structured to respond to the expectations of both the workplace and higher education;

(4) Be articulated in a way that ensures the most effective interconnection of competencies offered in specialized training programs;

(5) Establish standards for earning pre-college certificates;

(6) Establish transferability of pre-college certificates to college credit.

(C) The chancellor shall develop college-level certificates that can be transferred to college credit in different subject competencies. The certificates shall be based on competencies and experience and not on classroom seat time.

**Sec. 3333.342.** (A) The chancellor of higher education may designate a "certificate of value" for a certificate program at any adult career-technical education institution or state institution of higher education, as defined under section 3345.011 of the Revised Code, based on the standards



adopted under division (B) of this section.

(B) The chancellor shall develop standards for designation of the certificates of value for certificate programs at adult career-technical education institutions and state institutions of higher education. The standards shall include at least the following considerations:

- (1) The quality of the certificate program;
- (2) The ability to transfer agreed-upon technical courses completed through an adult career-technical education institution to a state institution of higher education without unnecessary duplication or institutional barriers;
- (3) The extent to which the certificate program encourages a student to obtain an associate's or bachelor's degree;
- (4) The extent to which the certificate program increases a student's likelihood to complete other certificate programs or an associate's or bachelor's degree;
- (5) The ability of the certificate program to meet the expectations of the workplace and higher education;
- (6) The extent to which the certificate program is aligned with the strengths of the regional economy;
- (7) The extent to which the certificate program increases the amount of individuals who remain in or enter the state's workforce;
- (8) The extent of a certificate program's relationship with private companies in the state to fill potential job growth.

(C) The designation of a certificate of value under this section shall expire six years after its designation date.

(D) The chancellor may revoke a designation prior to its expiration date if the chancellor determines that the program no longer complies with the standards developed under division (B) of this section.

(E) Any revocation of a certificate of value under this section shall become effective one hundred eighty days after the date the revocation was declared by the chancellor.

(F) Any adult career-technical education institution or state institution of higher education that desires to be eligible to receive a designation of certificate of value for one or more of its certificate programs shall comply with all records and data requests required by the chancellor.

**Sec. 3333.35.** The state board of education and the chancellor of higher education shall strive to reduce unnecessary student remediation costs incurred by colleges and universities in this state, increase overall access for students to higher education, enhance the college credit plus program in accordance with Chapter 3365. of the Revised Code, and enhance the alternative resident educator licensure program in accordance with section 3319.26 of the Revised Code.

**Sec. 3333.36.** If the chancellor of higher education determines that sufficient funds are available from general revenue fund appropriations made to the department of higher education or to the chancellor, the chancellor shall allocate the following:

(A) Up to seventy thousand dollars in each fiscal year to make payments to the Columbus program in intergovernmental issues, an Ohio internship program at Kent state university, for scholarships of up to two thousand dollars for each student enrolled in the program;

(B) Up to one hundred sixty-five thousand dollars in each fiscal year to make payments to the

Washington center for scholarships provided to undergraduates of Ohio's four-year public and private institutions of higher education selected to participate in the Washington center internship program. The amount of a student's scholarship shall not exceed the amount specified for such scholarships in the biennial operating appropriations act.

The chancellor may utilize any general revenue funds appropriated to the department or to the chancellor that the chancellor determines to be available for purposes of this section.

**Sec. 3333.37.** As used in sections 3333.37 to 3333.375 of the Revised Code, the following words and terms have the following meanings unless the context indicates a different meaning or intent:

(A) "Cost of attendance" means all costs of a student incurred in connection with a program of study at an eligible institution, as determined by the institution, including tuition; instructional fees; room and board; books, computers, and supplies; and other related fees, charges, and expenses.

(B) "Eligible institution" means one of the following:

(1) A state-assisted post-secondary educational institution within the state;

(2) A nonprofit institution of higher education within the state that holds a certificate of authorization issued under Chapter 1713. of the Revised Code, that is accredited by the appropriate regional and, when appropriate, professional accrediting associations within whose jurisdiction it falls, is authorized to grant a bachelor's degree or higher, and satisfies other conditions as set forth in the policy guidelines;

(3) A private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code.

(C) "Eligible student" means either of the following:

(1) An undergraduate student who meets all of the following:

(a) Is a resident of this state;

(b) Has graduated from any Ohio secondary school for which the state board of education prescribes minimum standards in accordance with section 3301.07 of the Revised Code;

(c) Is attending and in good standing, or has been accepted for attendance, at any eligible institution as a full-time student to pursue a bachelor's degree.

(2) A graduate student who is a resident of this state, and is attending and in good standing, or has been accepted for attendance, at any eligible institution.

(D) "Fellowship" or "fellowship program" means the Ohio priority needs fellowship created by sections 3333.37 to 3333.375 of the Revised Code.

(E) "Full-time student" has the meaning as defined by rule of the chancellor of higher education.

(F) "Ohio outstanding scholar" means a student who is the recipient of a scholarship under sections 3333.37 to 3333.375 of the Revised Code.

(G) "Policy guidelines" means the rules adopted by the chancellor pursuant to section 3333.374 of the Revised Code.

(H) "Priority needs fellow" means a student who is the recipient of a fellowship under sections 3333.37 to 3333.375 of the Revised Code.

(I) "Priority needs field of study" means those academic majors and disciplines as determined by the chancellor that support the purposes and intent of sections 3333.37 to 3333.375 of the Revised

Code as described in section 3333.371 of the Revised Code.

(J) "Scholarship" or "scholarship program" means the Ohio outstanding scholarship created by sections 3333.37 to 3333.375 of the Revised Code.

**Sec. 3333.372.** (A) There are hereby authorized the "Ohio outstanding scholarship" and the "Ohio priority needs fellowship" programs, which shall be established and administered by the chancellor of higher education for eligible students. The programs shall provide scholarships to eligible undergraduate students and fellowships to eligible graduate students, equal to the annual cost of attendance at eligible institutions, to pursue baccalaureate degrees and post-baccalaureate degrees in priority needs field of study consistent with section 3333.371 of the Revised Code.

(B) The scholarship and fellowship programs created under sections 3333.37 to 3333.375 of the Revised Code and any necessary administrative expenses shall be funded solely from the Ohio outstanding scholarship and the Ohio priority needs fellowship programs payment funds established pursuant to section 3333.375 of the Revised Code.

(C) The scholarships shall be renewable for each of three additional years for undergraduate study, and the fellowships shall be renewable for each of two additional years for graduate study, provided the Ohio outstanding scholar or priority needs fellow remains an eligible student at an eligible institution.

**Sec. 3333.373.** (A) The scholarship rules advisory committee is hereby established. The committee shall consist of the chancellor of higher education or the chancellor's designee, the treasurer of state or the treasurer of state's designee, the director of development or the director's designee, one state senator appointed by the president of the senate, one state representative appointed by the speaker of the house of representatives, and two public members appointed by the chancellor of higher education representing the interests of the state-assisted eligible institutions and private nonprofit eligible institutions, respectively.

(B) The committee shall provide recommendations to the chancellor of higher education as to rules, criteria, and guidelines necessary and appropriate to implement the scholarship and fellowship programs created by sections 3333.37 to 3333.375 of the Revised Code.

(C) The committee shall meet at least annually to review the scholarship and fellowship programs guidelines; make recommendations to amend, rescind, or modify the policy guidelines; and approve scholarship and fellowship awards to eligible students.

(D) Sections 101.82 to 101.87 of the Revised Code do not apply to this section.

**Sec. 3333.374.** (A) After receipt of recommendations from the scholarship rules advisory committee or if no recommendations are received, the chancellor of higher education, with the approval of the treasurer of state, shall adopt rules, in accordance with Chapter 119. of the Revised Code, establishing policy guidelines for the implementation of the scholarship and fellowship programs.

(B) Nothing in this section or section 3333.373 of the Revised Code shall prevent the chancellor, with the approval of the treasurer of state, from amending or rescinding rules adopted pursuant to division (A) of this section, or from adopting new rules, in accordance with Chapter 119. of the Revised Code, from time to time as are necessary to further the purposes of sections 3333.37 to 3333.375 of the Revised Code.

**Sec. 3333.375.** (A)(1) There are hereby created the Ohio outstanding scholarship and the

Ohio priority needs fellowship programs payment funds, which shall be in the custody of the treasurer of state, but shall not be a part of the state treasury.

(2) The payment funds shall consist solely of all moneys returned to the treasurer of state, as issuer of certain tax-exempt student loan revenue bonds, from all indentures of trust, both presently existing and future, created as a result of tax-exempt student loan revenue bonds issued under Chapter 3366. of the Revised Code, and any moneys earned from allowable investments of the payment funds under division (B) of this section.

(3) Except as provided in division (E) of this section, the payment funds shall be used solely for scholarship and fellowships awarded under sections 3333.37 to 3333.375 of the Revised Code by the chancellor of higher education and for any necessary administrative expenses incurred by the chancellor in administering the scholarship and fellowship programs.

(B) The treasurer of state may invest any moneys in the payment funds not currently needed for scholarship and fellowship payments in any kind of investments in which moneys of the public employees retirement system may be invested under Chapter 145. of the Revised Code.

(C)(1) The instruments of title of all investments shall be delivered to the treasurer of state or to a qualified trustee designated by the treasurer of state as provided in section 135.18 of the Revised Code.

(2) The treasurer of state shall collect both principal and investment earnings on all investments as they become due and pay them into the payment funds.

(3) All deposits to the payment funds shall be made in public depositories of this state and secured as provided in section 135.18 of the Revised Code.

(D) On or before March 1, 2001, and on or before the first day of March in each subsequent year, the treasurer of state shall provide to the chancellor a statement indicating the moneys in the Ohio outstanding scholarship and the Ohio priority needs fellowship programs payment funds that are available for the upcoming academic year to award scholarships and fellowships under sections 3333.37 to 3333.375 of the Revised Code.

(E) The chancellor may use funds the treasurer has indicated as available pursuant to division (D) of this section to support distribution of state need-based financial aid in accordance with sections 3333.12 and 3333.122 of the Revised Code.

**Sec. 3333.39.** The chancellor of higher education and the superintendent of public instruction shall establish and administer the teach Ohio program to promote and encourage citizens of this state to consider teaching as a profession. The program shall include all of the following:

(A) A statewide program administered by a nonprofit corporation that has been in existence for at least fifteen years with demonstrated results in encouraging high school students from economically disadvantaged groups to enter the teaching profession. The chancellor and superintendent jointly shall select the nonprofit corporation.

(B) The Ohio teaching fellows program established under sections 3333.391 and 3333.392 of the Revised Code;

(C) The Ohio teacher residency program established under section 3319.223 of the Revised Code;

(D) Alternative licensure procedures established under section 3319.26 of the Revised Code;

(E) Any other program as identified by the chancellor and the superintendent.

**Sec. 3333.391.** (A) As used in this section and in section 3333.392 of the Revised Code:

- (1) "Academic year" shall be as defined by the chancellor of higher education.
- (2) "Hard-to-staff school" and "hard-to-staff subject" shall be as defined by the department of education.
- (3) "Parent" means the parent, guardian, or custodian of a qualified student.
- (4) "Qualified service" means teaching at a qualifying school.
- (5) "Qualifying school" means a hard-to-staff school district building or a school district building that has a persistently low performance rating, as determined jointly by the chancellor and superintendent of public instruction, under section 3302.03 of the Revised Code at the time the recipient becomes employed by the district.

(B) If the chancellor of higher education determines that sufficient funds are available from general revenue fund appropriations made to the department of higher education or to the chancellor, the chancellor and the superintendent of public instruction jointly may develop and agree on a plan for the Ohio teaching fellows program to promote and encourage high school seniors to enter and remain in the teaching profession. Upon agreement of such a plan, the chancellor shall establish and administer the program in conjunction with the superintendent and with the cooperation of teacher training institutions. Under the program, the chancellor annually shall provide scholarships to students who commit to teaching in a qualifying school for a minimum of four years upon graduation from a teacher training program at a state institution of higher education or an Ohio nonprofit institution of higher education that has a certificate of authorization under Chapter 1713. of the Revised Code. The scholarships shall be for up to four years at the undergraduate level at an amount determined by the chancellor based on state appropriations.

(C) The chancellor shall adopt a competitive process for awarding scholarships under the teaching fellows program, which shall include minimum grade point average and scores on national standardized tests for college admission. The process shall also give additional consideration to all of the following:

- (1) A person who has participated in the program described in division (A) of section 3333.39 of the Revised Code;
- (2) A person who plans to specialize in teaching students with special needs;
- (3) A person who plans to teach in the disciplines of science, technology, engineering, or mathematics.

The chancellor shall require that all applicants to the teaching fellows program shall file a statement of service status in compliance with section 3345.32 of the Revised Code, if applicable, and that all applicants have not been convicted of, plead guilty to, or adjudicated a delinquent child for any violation listed in section 3333.38 of the Revised Code.

(D) Teaching fellows shall complete the four-year teaching commitment within not more than seven years after graduating from the teacher training program. Failure to fulfill the commitment shall convert the scholarship into a loan to be repaid under section 3333.392 of the Revised Code.

(E) The chancellor shall adopt rules in accordance with Chapter 119. of the Revised Code to administer this section and section 3333.392 of the Revised Code.

**Sec. 3333.392.** (A) Each recipient who accepts a scholarship under the Ohio teaching fellows program created under section 3333.391 of the Revised Code, or the recipient's parent if the recipient

is younger than eighteen years of age, shall sign a promissory note payable to the state in the event the recipient does not satisfy the service requirement of division (D) of section 3333.391 of the Revised Code or the scholarship is terminated. The amount payable under the note shall be the amount of total scholarships accepted by the recipient under the program plus ten per cent interest accrued annually beginning on the first day of September after graduating from the teacher training program or immediately after termination of the scholarship. The period of repayment under the note shall be determined by the chancellor of higher education. The note shall stipulate that the obligation to make payments under the note is canceled following completion of four years of qualified service by the recipient in accordance with division (D) of section 3333.391 of the Revised Code, or if the recipient dies, becomes totally and permanently disabled, or is unable to complete the required qualified service as a result of a reduction in force at the recipient's school of employment before the obligation under the note has been satisfied.

(B) Repayment of the principal amount of the scholarship and interest accrued shall be deferred while the recipient is enrolled in an approved teaching program, while the recipient is seeking employment to fulfill the service obligation, for a period not to exceed six months, or while the recipient is engaged in qualified service.

(C) During the seven-year period following the recipient's graduation from an approved teaching program, the chancellor shall deduct twenty-five per cent of the outstanding balance that may be converted to a loan for each year the recipient teaches at a qualifying school.

(D) The chancellor may terminate the scholarship, in which case the scholarship shall be converted to a loan to be repaid under division (A) of this section.

(E) The scholarship shall be deemed terminated upon the recipient's withdrawal from school or the recipient's failure to meet the standards of the scholarship as determined by the chancellor and shall be converted to a loan to be repaid under division (A) of this section.

(F) The chancellor and the attorney general shall collect payments on the converted loan in accordance with section 131.02 of the Revised Code.

**Sec. 3333.43.** This section does not apply to any baccalaureate degree program that is a cooperative education program, as defined in section 3333.71 of the Revised Code.

(A) The chancellor of higher education shall require all state institutions of higher education that offer baccalaureate degrees, as a condition of reauthorization for certification of each baccalaureate program offered by the institution, to submit a statement describing how each major for which the school offers a baccalaureate degree may be completed within three academic years. The chronology of the statement shall begin with the fall semester of a student's first year of the baccalaureate program.

(B) The statement required under this section may include, but not be limited to, any of the following methods to contribute to earning a baccalaureate degree in three years:

(1) Advanced placement credit;

(2) International baccalaureate program credit;

(3) A waiver of degree and credit-hour requirements by completion of courses that are widely available at community colleges in the state or through online programs offered by state institutions of higher education or private nonprofit institutions of higher education holding certificates of authorization under Chapter 1713. of the Revised Code, and through courses taken by the student

through the college credit plus program under Chapter 3365. of the Revised Code;

(4) Completion of coursework during summer sessions;

(5) A waiver of foreign-language degree requirements based on a proficiency examination specified by the institution.

(C)(1) Not later than October 15, 2012, each state institution of higher education shall provide statements required under this section for ten per cent of all baccalaureate degree programs offered by the institution.

(2) Not later than June 30, 2014, each state institution of higher education shall provide statements required under this section for sixty per cent of all baccalaureate degree programs offered by the institution.

(D) Each state institution of higher education required to submit statements under this section shall post its three-year option on its web site and also provide that information to the department of education. The department shall distribute that information to the superintendent, high school principal, and guidance counselor, or equivalents, of each school district, community school established under Chapter 3314. of the Revised Code, and STEM school established under Chapter 3326. of the Revised Code.

(E) Nothing in this section requires an institution to take any action that would violate the requirements of any independent association accrediting baccalaureate degree programs.

**Sec. 3333.44.** The chancellor of higher education shall designate a postsecondary globalization liaison to work with state institutions of higher education, as defined in section 3345.011 of the Revised Code, other state agencies, and representatives of the business community to enhance the state's globalization efforts.

The chancellor may designate a person already employed by the chancellor as the liaison.

**Sec. 3333.50.** The chancellor of higher education, in consultation with the governor and the department of development, shall develop a critical needs rapid response system to respond quickly to critical workforce shortages in the state. Not later than ninety days after a critical workforce shortage is identified, the chancellor shall submit to the governor a proposal for addressing the shortage through initiatives of the department of higher education or institutions of higher education.

**Sec. 3333.55.** (A) The health information and imaging technology workforce development pilot project is hereby established. Under the project, in fiscal years 2008 through 2010, the chancellor of higher education shall design and implement a three-year pilot program to test, in the vicinity of Clark, Greene, and Montgomery counties, how a P-16 public-private education and workforce development collaborative may address each of the following goals:

(1) Increase the number of students taking and mastering high-level science, technology, engineering, or mathematics courses and pursuing careers in those subjects, in all demographic regions of the state;

(2) Increase the number of students pursuing professional careers in health information and imaging technology upon receiving related technical education and professional experience, in all demographic regions of the state;

(3) Unify efforts among schools, career centers, post-secondary programs, and employers in a region for career and workforce development, preservation, and public education.

(B) The project shall focus on enhancing P-16 education and workforce development in the

field of health information and imaging technology through such activities as increased academic intervention in related areas of study, after-school and summer intervention programs, tutoring, career and job fairs and other promotional and recruitment activities, externships, professional development, field trips, academic competitions, development of related specialized study modules, development of honors programs, and development and enhancement of dual high school and college enrollment programs.

(C) Project participants shall include Clark-Shawnee local school district, Springfield city school district, Greene county career center, Clark state community college, Central state university, Wright state university, Cedarville university, Wittenberg university, the university of Dayton, and private employers in the health information and imaging technology industry in the vicinity of Clark, Greene, and Montgomery counties, selected by the chancellor.

For the third year of the project, the chancellor may add as participants the Dayton city school district and Xenia city school district.

(D) Wittenberg university shall be the lead coordinating agent and Clark state community college shall be the fiscal agent for the project.

(E) The chancellor shall create an advisory council made up of representatives of the participating entities to coordinate, monitor, and evaluate the project. The advisory council shall submit an annual activity report to the chancellor by a date specified by the chancellor.

**Sec. 3333.58.** There is hereby created at Shawnee state university the Ohio Appalachian center for higher education to increase the educational attainment of the residents of Ohio's Appalachian region, as defined in section 107.21 of the Revised Code. The board of directors of the center shall consist of the following members:

(A) The presidents of all of the following:

- (1) Shawnee state university;
- (2) Belmont technical college;
- (3) Hocking college;
- (4) Jefferson community college;
- (5) Zane state college;
- (6) Rio Grande community college;
- (7) Southern state community college;
- (8) Central Ohio technical college, Coshocton campus;
- (9) Washington state community college.

(B) The president of Ohio university, or the president's designee;

(C) The dean of one of the Salem, Tuscarawas, or East Liverpool regional campuses of Kent state university, as designated by the president of Kent state university;

(D) A representative of the chancellor of the Ohio board of regents as designated by the chancellor.

**Sec. 3333.59.** (A) As used in this section:

(1) "Allocated state share of instruction" means, for any fiscal year, the amount of the state share of instruction appropriated to the department of higher education by the general assembly that is allocated to a community or technical college or community or technical college district for such fiscal year.



- (2) "Issuing authority" has the same meaning as in section 154.01 of the Revised Code.
- (3) "Bond service charges" has the same meaning as in section 154.01 of the Revised Code.
- (4) "Chancellor" means the chancellor of higher education.
- (5) "Community or technical college" or "college" means any of the following state-supported or state-assisted institutions of higher education:
  - (a) A community college as defined in section 3354.01 of the Revised Code;
  - (b) A technical college as defined in section 3357.01 of the Revised Code;
  - (c) A state community college as defined in section 3358.01 of the Revised Code.
- (6) "Community or technical college district" or "district" means any of the following institutions of higher education that are state-supported or state-assisted:
  - (a) A community college district as defined in section 3354.01 of the Revised Code;
  - (b) A technical college district as defined in section 3357.01 of the Revised Code;
  - (c) A state community college district as defined in section 3358.01 of the Revised Code.
- (7) "Credit enhancement facilities" has the same meaning as in section 133.01 of the Revised Code.
- (8) "Obligations" has the meaning as in section 154.01 or 3345.12 of the Revised Code, as the context requires.

(B) The board of trustees of any community or technical college district authorizing the issuance of obligations under section 3354.12, 3354.121, 3357.11, 3357.112, or 3358.10 of the Revised Code, or for whose benefit and on whose behalf the issuing authority proposes to issue obligations under section 154.25 of the Revised Code, may adopt a resolution requesting the chancellor to enter into an agreement with the community or technical college district and the primary paying agent or fiscal agent for such obligations, providing for the withholding and deposit of funds otherwise due the district or the community or technical college it operates in respect of its allocated state share of instruction, for the payment of bond service charges on such obligations.

The board of trustees shall deliver to the chancellor a copy of the resolution and any additional pertinent information the chancellor may require.

The chancellor and the office of budget and management, and the issuing authority in the case of obligations to be issued by the issuing authority, shall evaluate each request received from a community or technical college district under this section. The chancellor, with the advice and consent of the director of budget and management and the issuing authority in the case of obligations to be issued by the issuing authority, shall approve each request if all of the following conditions are met:

- (1) Approval of the request will enhance the marketability of the obligations for which the request is made;
- (2) The chancellor and the office of budget and management, and the issuing authority in the case of obligations to be issued by the issuing authority, have no reason to believe the requesting community or technical college district or the community or technical college it operates will be unable to pay when due the bond service charges on the obligations for which the request is made, and bond service charges on those obligations are therefore not anticipated to be paid pursuant to this section from the allocated state share of instruction for purposes of Section 17 of Article VIII, Ohio Constitution.

(3) Any other pertinent conditions established in rules adopted under division (H) of this section.

(C) If the chancellor approves the request of a community or technical college district to withhold and deposit funds pursuant to this section, the chancellor shall enter into a written agreement with the district and the primary paying agent or fiscal agent for the obligations, which agreement shall provide for the withholding of funds pursuant to this section for the payment of bond service charges on those obligations. The agreement may also include both of the following:

(1) Provisions for certification by the district to the chancellor, prior to the deadline for payment of the applicable bond service charges, whether the district and the community or technical college it operates are able to pay those bond service charges when due;

(2) Requirements that the district or the community or technical college it operates deposits amounts for the payment of those bond service charges with the primary paying agent or fiscal agent for the obligations prior to the date on which the bond service charges are due to the owners or holders of the obligations.

(D) Whenever a district or the community or technical college it operates notifies the chancellor that it will not be able to pay the bond service charges when they are due, subject to the withholding provisions of this section, or whenever the applicable paying agent or fiscal agent notifies the chancellor that it has not timely received from a district or from the college it operates the full amount needed for payment of the bond service charges when due to the holders or owners of such obligations, the chancellor shall immediately contact the district or college and the paying agent or fiscal agent to confirm that the district and the college are not able to make the required payment by the date on which it is due.

If the chancellor confirms that the district and the college are not able to make the payment and the payment will not be made pursuant to a credit enhancement facility, the chancellor shall promptly pay to the applicable primary paying agent or fiscal agent the lesser of the amount due for bond service charges or the amount of the next periodic distribution scheduled to be made to the district or to the college in respect of its allocated state share of instruction. If this amount is insufficient to pay the total amount then due the agent for the payment of bond service charges, the chancellor shall continue to pay to the agent from each periodic distribution thereafter, and until the full amount due the agent for unpaid bond service charges is paid in full, the lesser of the remaining amount due the agent for bond service charges or the amount of the next periodic distribution scheduled to be made to the district or college in respect of its allocated state share of instruction.

(E) The chancellor may make any payments under this section by direct deposit of funds by electronic transfer.

Any amount received by a paying agent or fiscal agent under this section shall be applied only to the payment of bond service charges on the obligations of the community or technical college district or community or technical college subject to this section or to the reimbursement of the provider of a credit enhancement facility that has paid the bond service charges.

(F) The chancellor may make payments under this section to paying agents or fiscal agents during any fiscal biennium of the state only from and to the extent that money is appropriated to the department by the general assembly for distribution during such biennium for the state share of instruction and only to the extent that a portion of the state share of instruction has been allocated to

the community or technical college district or community or technical college. Obligations of the issuing authority or of a community or technical college district to which this section is made applicable do not constitute an obligation or a debt or a pledge of the faith, credit, or taxing power of the state, and the holders or owners of those obligations have no right to have excises or taxes levied or appropriations made by the general assembly for the payment of bond service charges on the obligations, and the obligations shall contain a statement to that effect. The agreement for or the actual withholding and payment of money under this section does not constitute the assumption by the state of any debt of a community or technical college district or a community or technical college, and bond service charges on the related obligations are not anticipated to be paid from the state general revenue fund for purposes of Section 17 of Article VIII, Ohio Constitution.

(G) In the case of obligations subject to the withholding provisions of this section, the issuing community or technical college district, or the issuing authority in the case of obligations issued by the issuing authority, shall appoint a paying agent or fiscal agent who is not an officer or employee of the district or college.

(H) The chancellor, with the advice and consent of the office of budget and management, may adopt reasonable rules not inconsistent with this section for the implementation of this section to secure payment of bond service charges on obligations issued by a community or technical college district or by the issuing authority for the benefit of a community or technical college district or the community or technical college it operates. Those rules shall include criteria for the evaluation and approval or denial of community or technical college district requests for withholding under this section.

(I) The authority granted by this section is in addition to and not a limitation on any other authorizations granted by or pursuant to law for the same or similar purposes.

**Sec. 3333.61.** The chancellor of higher education shall establish and administer the Ohio innovation partnership, which shall consist of the choose Ohio first scholarship program and the Ohio research scholars program. Under the programs, the chancellor, subject to approval by the controlling board, shall make awards to state universities or colleges for programs and initiatives that recruit students and scientists in the fields of science, technology, engineering, mathematics, medicine, and dentistry to state universities or colleges, in order to enhance regional educational and economic strengths and meet the needs of the state's regional economies. Awards may be granted for programs and initiatives to be implemented by a state university or college alone or in collaboration with other state institutions of higher education, nonpublic Ohio universities and colleges, or other public or private Ohio entities. If the chancellor makes an award to a program or initiative that is intended to be implemented by a state university or college in collaboration with other state institutions of higher education or nonpublic Ohio universities or colleges, the chancellor may provide that some portion of the award be received directly by the collaborating universities or colleges consistent with all terms of the Ohio innovation partnership.

The choose Ohio first scholarship program shall assign a number of scholarships to state universities and colleges to recruit Ohio residents as undergraduate, or as provided in section 3333.66 of the Revised Code graduate, students in the fields of science, technology, engineering, mathematics, medicine, and dentistry, or in science, technology, engineering, mathematics, medical, or dental education. Choose Ohio first scholarships shall be awarded to each participating eligible

student as a grant to the state university or college the student is attending and shall be reflected on the student's tuition bill. Choose Ohio first scholarships are student-centered grants from the state to students to use to attend a university or college and are not grants from the state to universities or colleges.

Notwithstanding any other provision of this section or sections 3333.62 to 3333.69 of the Revised Code, a nonpublic four-year Ohio institution of higher education may submit a proposal for choose Ohio first scholarships or Ohio research scholars grants. If the chancellor awards a nonpublic institution scholarships or grants, the nonpublic institution shall comply with all requirements of this section, sections 3333.62 to 3333.69 of the Revised Code, and the rules adopted under this section that apply to state universities or colleges awarded choose Ohio first scholarships or Ohio research scholars grants.

The Ohio research scholars program shall award grants to use in recruiting scientists to the faculties of state universities or colleges.

The chancellor shall adopt rules in accordance with Chapter 119. of the Revised Code to administer the programs.

**Sec. 3333.611.** (A) All of the following individuals shall jointly develop a proposal for the creation of a primary care medical student component of the choose Ohio first scholarship program operated under section 3333.61 of the Revised Code under which scholarships are annually made available and awarded to medical students who meet the requirements specified in division (D) of this section:

- (1) The dean of the Ohio state university school of medicine;
- (2) The dean of the Case western reserve university school of medicine;
- (3) The dean of the university of Toledo college of medicine;
- (4) The president and dean of the northeast Ohio medical university;
- (5) The dean of the university of Cincinnati college of medicine;
- (6) The dean of the Boonshoft school of medicine at Wright state university;
- (7) The dean of the Ohio university college of osteopathic medicine.

(B) The individuals specified in division (A) of this section shall consider including the following provisions in the proposal:

- (1) Establishing a scholarship of sufficient size to permit annually not more than fifty medical students to receive scholarships;
- (2) Specifying that a scholarship, once granted, may be provided to a medical student for not more than four years.

(C) The individuals specified in division (A) of this section shall submit the proposal for the component to the chancellor of higher education not later than March 6, 2011. The chancellor shall review the proposal and determine whether to implement the component as part of the program.

(D) To be eligible for a scholarship made available under the component, a medical student shall meet all of the following requirements:

- (1) Participate in identified patient centered medical home model training opportunities during medical school;
- (2) Commit to a post-residency primary care practice in this state for not less than three years;

(3) Accept medicaid recipients as patients, without restriction and, as compared to other patients, in a proportion that is specified in the scholarship.

**Sec. 3333.612.** (A) All of the following individuals shall jointly develop a proposal for the creation of a primary care nursing student component of the choose Ohio first scholarship program operated under section 3333.61 of the Revised Code under which scholarships are annually made available and awarded to advanced practice nursing students who meet the requirements specified in division (D) of this section:

- (1) The dean of the college of nursing at the university of Toledo;
- (2) The dean of the Wright state university college of nursing and health;
- (3) The dean of the college of nursing at Kent state university;
- (4) The dean of the university of Akron college of nursing;
- (5) The director of the school of nursing at Ohio university.

(B) The individuals specified in division (A) of this section shall consider including the following provisions in the proposal:

(1) Establishing a scholarship of sufficient size to permit annually not more than thirty advanced practice nursing students to receive scholarships;

(2) Specifying that a scholarship, once granted, may be provided to an advanced practice nursing student for not more than three years.

(C) The individuals specified in division (A) of this section shall submit the proposal for the component to the chancellor of higher education not later than six months after September 6, 2010. The chancellor shall review the proposal and determine whether to implement the component as part of the program.

(D) To be eligible for a scholarship made available under the component, an advanced practice nursing student shall meet all of the following requirements:

(1) Participate in identified patient centered medical home model training opportunities during nursing school;

(2) Commit to an advanced practice nursing primary care practice in this state after completing nursing school for not less than three years;

(3) Accept medicaid recipients as patients, without restriction and, as compared to other patients, in a proportion that is specified in the scholarship.

**Sec. 3333.613.** There is hereby created in the state treasury the choose Ohio first scholarship reserve fund. As soon as possible following the end of each fiscal year, the chancellor of higher education shall certify to the director of budget and management the unencumbered balance of the general revenue fund appropriations made in the immediately preceding fiscal year for purposes of the choose Ohio first scholarship program created in section 3333.61 of the Revised Code. Upon receipt of the certification, the director of budget and management may transfer an amount not exceeding the certified amount from the general revenue fund to the choose Ohio first scholarship reserve fund. Moneys in the choose Ohio first scholarship reserve fund shall be used to pay scholarship obligations in excess of the general revenue fund appropriations made for that purpose.

The director of budget and management may transfer any unencumbered balance from the choose Ohio first scholarship reserve fund to the general revenue fund.

If it is determined that general revenue fund appropriations are insufficient to meet the

obligations for the choose Ohio first scholarship in a fiscal year, the director of budget and management may transfer funds from the choose Ohio first scholarship reserve fund to the general revenue fund in order to meet those obligations. The amount transferred is hereby appropriated. If the funds transferred from the choose Ohio first scholarship reserve fund are not needed, the director of budget and management may transfer the unexpended balance from the general revenue fund back to the choose Ohio first scholarship reserve fund.

**Sec. 3333.62.** The chancellor of higher education shall establish a competitive process for making awards under the choose Ohio first scholarship program and the Ohio research scholars program. The chancellor, on completion of that process, shall make a recommendation to the controlling board asking for approval of each award selected by the chancellor.

Any state university or college may apply for one or more awards under one or both programs. The state university or college shall submit a proposal and other documentation required by the chancellor, in the form and manner prescribed by the chancellor, for each award it seeks. A proposal may propose an initiative to be implemented solely by the state university or college or in collaboration with other state institutions of higher education, nonpublic Ohio universities or colleges, or other public or nonpublic Ohio entities. A single proposal may seek an award under one or both programs.

The chancellor shall determine which proposals will receive awards each fiscal year, and the amount of each award, on the basis of the merit of each proposal, which the chancellor, subject to approval by the controlling board, shall determine based on one or more of the following criteria:

(A) The quality of the program that is the subject of the proposal and the extent to which additional resources will enhance its quality;

(B) The extent to which the proposal is integrated with the strengths of the regional economy;

(C) The extent to which the proposal is integrated with centers of research excellence within the private sector;

(D) The amount of other institutional, public, or private resources, whether monetary or nonmonetary, that the proposal pledges to leverage;

(E) The extent to which the proposal is collaborative with other public or nonpublic Ohio institutions of higher education;

(F) The extent to which the proposal is integrated with the university's or college's mission and does not displace existing resources already committed to the mission;

(G) The extent to which the proposal facilitates a more efficient utilization of existing faculty and programs;

(H) The extent to which the proposal meets a statewide educational need;

(I) The demonstrated productivity or future capacity of the students or scientists to be recruited;

(J) The extent to which the proposal will create additional capacity in educational or economic areas of need;

(K) The extent to which the proposal will encourage students who received degrees in the fields of science, technology, engineering, mathematics, or medicine from two-year institutions to transfer to state universities or colleges to pursue baccalaureate degrees in science, technology, engineering, mathematics, or medicine;

(L) The extent to which the proposal encourages students enrolled in state universities to transfer into science, technology, engineering, mathematics, or medicine programs;

(M) The extent to which the proposal facilitates the completion of a baccalaureate degree in a cost-effective manner, for example, by facilitating students' completing two years at a two-year institution and two years at a state university or college;

(N) The extent to which the proposal allows attendance at a state university or college of students who otherwise could not afford to attend;

(O) The extent to which other institutional, public, or private resources pledged to the proposal will be deployed to assist in sustaining students' scholarships over their academic careers;

(P) The extent to which the proposal increases the likelihood that students will successfully complete their degree programs in science, technology, engineering, mathematics, or medicine or in science, technology, engineering, mathematics, or medical education;

(Q) The extent to which the proposal ensures that a student who is awarded a scholarship is appropriately qualified and prepared to successfully complete a degree program in science, technology, engineering, mathematics, or medicine or in science, technology, engineering, mathematics, or medical education;

(R) The extent to which the proposal will increase the number of women participating in the choose Ohio first scholarship program.

**Sec. 3333.63.** The chancellor of higher education shall conduct at least one public meeting annually, prior to deciding awards under the Ohio innovation partnership. At the meeting, an employee of the chancellor shall summarize the proposals submitted for consideration, and each state university or college that has a proposal pending shall have the opportunity to review the summary of their proposal prepared by the chancellor's staff and answer questions or respond to concerns about the proposal raised by the chancellor's staff.

**Sec. 3333.64.** The chancellor of higher education shall endeavor to make awards under the choose Ohio first scholarship program and the Ohio research scholars program such that the aggregate, statewide amount of other institutional, public, and private money pledged to the proposals in each fiscal year equals at least one hundred per cent of the aggregate amount of the money awarded under both programs that year. The chancellor shall endeavor to make awards under the choose Ohio first scholarship program in such a way that at least fifty per cent of the students receiving the scholarships are involved in a co-op or internship program in a private industry or a university laboratory. The value of institutional, public, or private industry co-ops and internships shall count toward the statewide aggregate amount of other institutional, public, or private money specified in this paragraph.

The chancellor also shall endeavor to distribute awards in such a way that all regions of the state benefit from the economic development impact of the programs and shall guarantee that students from all regions of the state are able to participate in the scholarship program.

**Sec. 3333.65.** The chancellor of higher education shall require each state university or college that the controlling board approves to receive an award under the Ohio innovation partnership to enter into an agreement governing the use of the award. The agreement shall contain terms the chancellor determines to be necessary, which shall include performance measures, reporting requirements, and an obligation to fulfill pledges of other institutional, public, or nonpublic resources

for the proposal.

The chancellor may require a state university or college that violates the terms of its agreement to repay the award plus interest at the rate required by section 5703.47 of the Revised Code to the chancellor.

If the chancellor makes an award to a program or initiative that is intended to be implemented by a state university or college in collaboration with other state institutions of higher education or nonpublic Ohio universities or colleges, the chancellor may enter into an agreement with the collaborating universities or colleges that permits awards to be received directly by the collaborating universities or colleges consistent with the terms of the program or initiative. In that case, the chancellor shall incorporate into the agreement terms consistent with the requirements of this section.

**Sec. 3333.66.** (A)(1) Except as provided in division (A)(2) of this section, in each academic year, no student who receives a choose Ohio first scholarship shall receive less than one thousand five hundred dollars or more than one-half of the highest in-state undergraduate instructional and general fees charged by all state universities. For this purpose, if Miami university is implementing the pilot tuition restructuring plan originally recognized in Am. Sub. H.B. 95 of the 125th general assembly, that university's instructional and general fees shall be considered to be the average full-time in-state undergraduate instructional and general fee amount after taking into account the Ohio resident and Ohio leader scholarships and any other credit provided to all Ohio residents.

(2) The chancellor of higher education may authorize a state university or college or a nonpublic Ohio institution of higher education to award a choose Ohio first scholarship in an amount greater than one-half of the highest in-state undergraduate instructional and general fees charged by all state universities to either of the following:

(a) Any undergraduate student who qualifies for a scholarship and is enrolled in a program leading to a teaching profession in science, technology, engineering, mathematics, or medicine;

(b) Any graduate student who qualifies for a scholarship, if any initiatives are selected for award under division (B) of this section.

(B) The chancellor shall encourage state universities and colleges, alone or in collaboration with other state institutions of higher education, nonpublic Ohio universities and colleges, or other public or private Ohio entities, to submit proposals under the choose Ohio first scholarship program for initiatives that recruit either of the following:

(1) Ohio residents who enrolled in colleges and universities in other states or other countries to return to Ohio and enroll in state universities or colleges as graduate students in the fields of science, technology, engineering, mathematics, and medicine, or in the fields of science, technology, engineering, mathematics, or medical education. If such proposals are submitted and meet the chancellor's competitive criteria for awards, the chancellor, subject to approval by the controlling board, shall give at least one of the proposals preference for an award.

(2) Graduates, or undergraduates who will graduate in time to participate in the program described in this division by the subsequent school year, from an Ohio college or university who received, or will receive, a degree in science, technology, engineering, mathematics, or medicine to participate in a graduate-level teacher education masters program in one of those fields that requires the student to establish a domicile in the state and to commit to teach for a minimum of three years in a hard-to-staff school district in the state upon completion of the master's degree program. The



chancellor may require a college or university to give priority to qualified candidates who graduated from a high school in this state.

"Hard-to-staff" shall be as defined by the department of education.

(C) The general assembly intends that money appropriated for the choose Ohio first scholarship program in each fiscal year be used for scholarships in the following academic year.

**Sec. 3333.67.** Each state university or college that receives an award under the Ohio research scholars program shall deposit the amount it receives into a new or existing endowment fund. The university or college shall maintain the amount received and use income generated from that amount, and other institutional, public, or nonpublic resources, to finance the proposal approved by the chancellor of higher education and the controlling board.

**Sec. 3333.68.** When making an award under the Ohio innovation partnership, the chancellor of higher education, subject to approval by the controlling board, may commit to giving a state university's or college's proposal preference for future awards after the current fiscal year or fiscal biennium. A proposal's eligibility for future awards remains conditional on all of the following:

(A) Future appropriations of the general assembly;

(B) The university's or college's adherence to the agreement entered into under section 3333.65 of the Revised Code, including its fulfillment of pledges of other institutional, public, or nonpublic resources;

(C) With respect to the choose Ohio first scholarship program, a demonstration that the students receiving the scholarship are satisfied with the state universities or colleges selected by the chancellor to offer the scholarships.

The chancellor and the controlling board shall not commit to awarding any proposal for more than five fiscal years at a time. However, when a commitment for future awards expires, a state university or college may reapply.

**Sec. 3333.69.** The chancellor of higher education shall monitor each initiative for which an award is granted under the Ohio innovation partnership to ensure the following:

(A) Fiscal accountability, so that the award is used in accordance with the agreement entered into under section 3333.65 of the Revised Code;

(B) Operating progress, so that the initiative is managed to achieve the goals stated in the proposal and in the agreement, and so that problems may be promptly identified and remedied;

(C) Desired outcomes, so that the initiative contributes to the programs' goals of enhancing regional educational and economic strengths and meeting regional economic needs.

**Sec. 3333.70.**

**Sec. 3333.71.** As used in sections 3333.71 to 3333.79 of the Revised Code:

(A) "Cooperative education program" means a partnership between students, institutions of higher education, and employers that formally integrates students' academic study with work experience in cooperating employer organizations and that meets all of the following conditions:

(1) Alternates or combines periods of academic study and work experience in appropriate fields as an integral part of student education;

(2) Provides students with compensation from the cooperative employer in the form of wages or salaries for work performed;

(3) Evaluates each participating student's performance in the cooperative position, both from

the perspective of the student's institution of higher education and the student's cooperative employer;

(4) Provides participating students with academic credit from the institution of higher education upon successful completion of their cooperative education;

(5) Is part of an overall degree or certificate program for which a percentage of the total program acceptable to the chancellor of higher education involves cooperative education.

(B) "Internship program" means a partnership between students, institutions of higher education, and employers that formally integrates students' academic study with work or community service experience and that does both of the following:

(1) Offers internships of specified and definite duration;

(2) Evaluates each participating student's performance in the internship position, both from the perspective of the student's institution of higher education and the student's internship employer.

An internship program may provide participating students with academic credit upon successful completion of the internship, and may provide students with compensation in the form of wages or salaries, stipends, or scholarships.

(C) "Nonpublic university or college" means a nonprofit institution holding a certificate of authorization issued under Chapter 1713. of the Revised Code.

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

**Sec. 3333.72.** The chancellor of higher education shall establish and administer the Ohio co-op/internship program to promote and encourage cooperative education programs or internship programs at Ohio institutions of higher education for the purpose of recruiting Ohio students to stay in the state, and recruiting Ohio residents who left Ohio to attend out-of-state institutions of higher education back to Ohio institutions of higher education, to participate in high quality academic programs that use cooperative education programs or significant internship programs, in order to support the growth of Ohio's businesses by providing businesses with Ohio's most talented students and providing Ohio graduates with job opportunities with Ohio's growing companies.

The chancellor, subject to approval by the controlling board, shall make awards to state institutions of higher education for new or existing programs and initiatives meeting the goals of the Ohio co-op/internship program. Awards may be granted for programs and initiatives to be implemented by a state institution of higher education alone or in collaboration with other state institutions of higher education or nonpublic Ohio universities and colleges. If the chancellor makes an award to a program or initiative that is intended to be implemented by a state institution of higher education in collaboration with other state institutions of higher education or nonpublic Ohio universities or colleges, the chancellor may provide that some portion of the award be received directly by the collaborating universities or colleges consistent with all terms of the Ohio co-op/internship program.

The Ohio co-op/internship program shall support the creation and maintenance of high quality academic programs that utilize an intensive cooperative education or internship program for students at state institutions of higher education, or assign a number of scholarships to institutions to recruit Ohio residents as students in a high quality academic program, or both. If scholarships are included in an award to an institution of higher education, the scholarships shall be awarded to each

participating eligible student as a grant to the state institution of higher education the student is attending and shall be reflected on the student's tuition bill.

Notwithstanding any other provision of this section or sections 3333.73 to 3333.79 of the Revised Code, an Ohio four-year nonpublic university or college may submit a proposal as lead applicant or co-lead applicant for an award under the Ohio co-op/internship program if the proposal is to be implemented in collaboration with a state institution of higher education. If the chancellor grants a nonpublic university or college an award, the nonpublic university or college shall comply with all requirements of this section, sections 3333.73 to 3333.79 of the Revised Code, and the rules adopted under this section that apply to state institutions of higher education that receive awards under the program.

The chancellor shall adopt rules in accordance with Chapter 119. of the Revised Code to administer the Ohio co-op/internship program.

**Sec. 3333.73.** The chancellor of higher education shall establish a competitive process for making awards under the Ohio co-op/internship program. The chancellor, on completion of that process, shall make a recommendation to the controlling board asking for approval of each award selected by the chancellor.

The state institution of higher education shall submit a proposal and other documentation required by the chancellor, in the form and manner prescribed by the chancellor, for each award it seeks. A proposal may propose an initiative to be implemented solely by the state institution of higher education or in collaboration with other state institutions of higher education or nonpublic Ohio universities or colleges.

The chancellor shall determine which proposals will receive awards each fiscal year, and the amount of each award, on the basis of the merit of each proposal, which the chancellor, subject to approval by the controlling board, shall determine based on one or more of the following criteria:

(A) The extent to which the proposal will keep Ohio students in Ohio institutions of higher education;

(B) The extent to which the proposal will attract Ohio residents who left Ohio to attend out-of-state institutions of higher education to return to Ohio institutions of higher education;

(C) The extent to which the proposal will increase the number of Ohio graduates who remain in Ohio and enter Ohio's workforce;

(D) The quality of the program that is the subject of the proposal and the extent to which additional resources will enhance its quality;

(E) The extent to which the proposal is integrated with the strengths of the regional economy;

(F) The extent to which the proposal supports the workforce policies of the governor's office of workforce transformation to meet the workforce needs of the state and to provide a student participating in the program with the skills needed for workplace success;

(G) The extent to which the proposal facilitates the development of high quality academic programs with a cooperative education program or a significant internship program at state institutions of higher education;

(H) The extent to which the proposal is integrated with supporting private companies to fill potential job growth, is responsive to the needs of employers, aligns with the skills identified by employers as necessary to fill high-demand job openings, particularly job openings in targeted

industry sectors as identified by the governor's office of workforce transformation;

(I) The amount of other institutional, public, or private resources, whether monetary or nonmonetary, the proposal pledges to leverage that are in addition to the monetary cost-sharing requirement prescribed in section 3333.74 of the Revised Code;

(J) The extent to which the proposal is collaborative with other Ohio institutions of higher education;

(K) The extent to which the proposal is integrated with the institution's mission;

(L) The extent to which the proposal meets a statewide educational need at the undergraduate or graduate level;

(M) The demonstrated productivity or future capacity of the students to be recruited;

(N) The extent to which the proposal will create additional capacity in a high quality academic program with a cooperative education program or significant internship program;

(O) The extent to which the proposal will encourage students who received degrees from two-year institutions to pursue baccalaureate degrees;

(P) The extent to which the proposal facilitates the completion of a baccalaureate degree in a cost-effective manner;

(Q) The extent to which other institutional, public, or private resources that are pledged to the proposal, in addition to the monetary cost-sharing requirement prescribed in section 3333.74 of the Revised Code, will be deployed to assist in sustaining the academic program of excellence;

(R) The extent to which the proposal increases the likelihood that students will successfully complete their degree programs or certificate programs;

(S) The extent to which the proposal ensures that a student participating in the high quality academic program funded by the Ohio co-op/internship program is appropriately qualified and prepared to successfully transition into professions in Ohio's growing companies and industries.

**Sec. 3333.731.** (A) The co-op/internship program advisory committee is hereby created. The committee shall consist of the following members:

(1) Five members appointed by the governor, two of whom shall represent academia, two of whom shall be representatives of private industry, and one of whom shall be a member of the public;

(2) The director of development, or the director's designee;

(3) Five members appointed by the president of the senate, three of whom shall be members of the senate, but not more than two from the same political party, one of whom shall represent academia, and one of whom shall be a member of the public;

(4) Five members appointed by the speaker of the house of representatives, three of whom shall be members of the house of representatives, but not more than two from the same political party, one of whom shall represent private industry, and one of whom shall be a member of the public.

(B) Members of the committee who are members of the general assembly shall serve for terms of four years or until their legislative terms end, whichever is sooner. The director of development or the director's designee shall serve as an ex-officio, voting member. Otherwise, initial members shall serve the following terms:

(1) Of the initial members appointed by the governor, the member representing the public and one member representing academia shall serve for terms of one year; one member representing

private industry shall serve for a term of two years; and one member representing private industry and one member representing academia shall serve for terms of three years.

(2) The member representing academia and the representative of the public initially appointed by the president of the senate shall serve for terms of two years.

(3) The member representing private industry initially appointed by the speaker of the house of representatives shall serve for a term of one year.

(4) The representative of the public initially appointed by the speaker of the house of representatives shall serve for a term of three years.

Thereafter, terms shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall serve from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the same manner as provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member was appointed shall hold office for the remainder of that term. A member shall continue to serve after the expiration date of the member's term until the member's successor is appointed or until a period of sixty days has elapsed, whichever occurs first. The appointing authority may remove a member from the committee for failure to attend two consecutive meetings without showing good cause for the absences.

(C) The committee annually shall select a chairperson and a vice-chairperson. Only the members who represent academia and private industry may serve as chairperson and vice-chairperson. For this purpose, any committee member appointed as a member of the public who is a trustee, officer, employee, or student of an institution of higher education shall be included among the representatives of academia who may serve as chairperson or vice-chairperson, and any committee member appointed as a member of the public who is a director, officer, or employee of a private business shall be included among the representatives of private industry who may serve as chairperson or vice-chairperson. The committee annually shall rotate the selection of the chairperson between these two groups and shall select a member of the other group to serve as vice-chairperson.

The committee annually shall select one of its members to serve as secretary to keep a record of the committee's proceedings.

(D) A majority vote of the members of the full committee is necessary to take action on any matter. The committee may adopt bylaws governing its operation, including bylaws that establish the frequency of meetings.

(E) Members of the committee shall serve without compensation.

(F) A member of the committee shall not participate in discussions or votes concerning a proposed initiative or an actual award under the Ohio co-op/internship program that involves an institution of higher education of which the member is a trustee, officer, employee, or student; an organization of which the member is a trustee, director, officer, or employee; or a business of which the member is a director, officer, or employee or a shareholder of more than five per cent of the business' stock.

(G) The committee shall advise the chancellor of higher education on growing industries well-suited for awards under the Ohio co-op/internship program. The chancellor shall consult with the committee and request the committee's advice at each of the following times:

- (1) Prior to issuing each request for applications under the program;
- (2) While the chancellor is reviewing applications and before deciding on awards to submit for the controlling board's approval;
- (3) After deciding on awards to submit for the controlling board's approval and prior to submitting them.

The committee shall advise the chancellor on other matters the chancellor considers appropriate.

(H) The chancellor shall provide meeting space for the committee. The committee shall be assisted in its duties by the chancellor's staff.

(I) Sections 101.82 to 101.87 of the Revised Code do not apply to the committee.

**Sec. 3333.74.** (A) Except as provided in division (B) of this section, each award under the Ohio co-op/internship program shall require a pledge of private funds equal to the following:

- (1) In the case of a program, initiative, or scholarships for undergraduate students, at least one hundred per cent of the money awarded;
- (2) In the case of a program, initiative, or scholarships for graduate students, at least one hundred fifty per cent of the money awarded.

(B) The chancellor of higher education may waive the requirement of division (A) of this section if the chancellor finds that exceptional circumstances exist to do so, provided that the chancellor reviews the proposal with the advisory committee established under section 3333.731 of the Revised Code and provides an explanation for the waiver to the controlling board.

(C) The chancellor shall endeavor to distribute awards in such a way that a wide range of disciplines is supported and that all regions of the state benefit from the economic development impact of the program.

**Sec. 3333.75.** The chancellor of higher education shall require each state institution of higher education that the controlling board approves to receive an award under the Ohio co-op/internship program to enter into an agreement governing the use of the award. The agreement shall contain terms the chancellor determines to be necessary, which shall include performance measures, reporting requirements, and an obligation to fulfill pledges of other institutional, public, or nonpublic resources for the proposal.

The chancellor may require a state institution of higher education that violates the terms of its agreement to repay the award plus interest at the rate required by section 5703.47 of the Revised Code to the chancellor.

If the chancellor makes an award to a program or initiative that is intended to be implemented by a state institution of higher education in collaboration with other state institutions of higher education or nonpublic Ohio universities or colleges, the chancellor may enter into an agreement with the collaborating universities or colleges that permits awards to be received directly by the collaborating universities or colleges consistent with the terms of the program or initiative. In that case, the chancellor shall incorporate into the agreement terms consistent with the requirements of this section.

**Sec. 3333.76.** The chancellor of higher education shall encourage state institutions of higher education, alone or in collaboration with other state institutions of higher education or nonpublic Ohio universities and colleges, to submit proposals under the Ohio co-op/internship program for

initiatives that recruit Ohio residents enrolled in colleges and universities in other states or other countries to return to Ohio and enroll in state institutions of higher education or nonpublic Ohio universities and colleges as graduate students in a high quality academic program that uses a cooperative education program, a significant internship program in a private industry or institutional laboratory, or a similar model involving a variation of cooperative education or internship programs common to graduate education, and is in an educational area, industry, or industry sector of need.

The chancellor may encourage state institutions of higher education, alone or in collaboration with other state institutions of higher education or nonpublic Ohio universities and colleges, to submit proposals for initiatives that recruit Ohio residents who have received baccalaureate degrees to remain in Ohio and enroll in state institutions of higher education or nonpublic Ohio universities and colleges as graduate students in a high quality academic program of the type described in the preceding paragraph.

**Sec. 3333.77.** When making an award under the Ohio co-op/internship program, the chancellor of higher education, subject to approval by the controlling board, may commit to giving a state institution of higher education's proposal preference for future awards after the current fiscal year or fiscal biennium. A proposal's eligibility for future awards remains conditional on all of the following:

(A) Future appropriations of the general assembly;

(B) The institution's adherence to the agreement entered into under section 3333.75 of the Revised Code, including its fulfillment of pledges of other institutional, public, or nonpublic resources;

(C) A demonstration that the students participating in the programs and initiatives or receiving scholarships financed by the awards are satisfied with the institutions selected by the chancellor to offer the programs, initiatives, or scholarships financed by the awards.

The chancellor and the controlling board shall not commit to awarding any proposal for a period that exceeds five fiscal years. However, when an award, or the commitment for an award, expires, a state institution of higher education may apply for a new award.

**Sec. 3333.78.** The chancellor of higher education shall monitor each initiative for which an award is granted under the Ohio co-op/internship program to ensure the following:

(A) Fiscal accountability, so that the award is used in accordance with the agreement entered into under section 3333.75 of the Revised Code;

(B) Operating progress, so that the initiative is managed to achieve the goals stated in the proposal and in the agreement, and so that problems may be promptly identified and remedied;

(C) Desired outcomes, so that the initiative contributes to the program's goal of retaining Ohio's students after graduation.

**Sec. 3333.79.** (A) As used in this section, "minority" has the same meaning as in section 184.17 of the Revised Code. The term also includes an individual who is economically disadvantaged.

(B) The chancellor of higher education shall conduct outreach activities in Ohio that seek to include minorities in the Ohio co-op/internship program established under section 3333.72 of the Revised Code. The outreach activities shall include the following, when appropriate:

(1) Identifying and partnering with historically black colleges and universities;

(2) Working with all institutions of higher education in the state to support minority faculty and students involved in cooperative and intern programs;

(3) Developing a plan to contact by telephone minorities and other economically disadvantaged individuals to notify them of opportunities to participate in the co-op/internship program;

(4) Identifying minority professional and trade associations and economic development assistance organizations and notifying them of the co-op/internship program;

(5) Partnering with regional technology councils to foster local efforts to support minority participation in the co-op/internship program.

(C) To the extent possible, outreach activities described in this section shall be conducted in conjunction with the EDGE program created in section 123.152 of the Revised Code.

**Sec. 3333.82.** (A) The chancellor of higher education shall establish a clearinghouse of digital texts, interactive distance learning courses, and other distance learning courses delivered via a computer-based method offered by school districts, community schools, STEM schools, state institutions of higher education, private colleges and universities, and other nonprofit and for-profit course providers for sharing with other school districts, community schools, STEM schools, state institutions of higher education, private colleges and universities, and individuals for the fee set pursuant to section 3333.84 of the Revised Code. The chancellor shall not be responsible for the content of digital texts or courses offered through the clearinghouse; however, all such digital texts and courses shall be delivered only in accordance with technical specifications approved by the chancellor and on a common statewide platform administered by the chancellor. The chancellor may provide professional development and training on the use of the distance learning clearinghouse.

The clearinghouse's distance learning program for students in grades kindergarten to twelve shall be based on the following principles:

(1) All Ohio students shall have access to high quality digital texts and distance learning courses at any point in their educational careers.

(2) All students shall be able to customize their education using digital texts and distance learning courses offered through the clearinghouse and no student shall be denied access to any digital text or course in the clearinghouse in which the student is eligible to enroll.

(3) Students may take distance learning courses for all or any portion of their curriculum requirements and may utilize a combination of digital texts and distance learning courses and courses taught in a traditional classroom setting.

(4) Students may earn an unlimited number of academic credits through distance learning courses.

(5) Students may take distance learning courses at any time of the calendar year.

(6) Student advancement to higher coursework shall be based on a demonstration of subject area competency instead of completion of any particular number of hours of instruction.

(B) To offer digital texts or a course through the clearinghouse, a provider shall apply to the chancellor in a form and manner prescribed by the chancellor. The application for each digital text or course shall describe the digital text or course of study in as much detail as required by the chancellor, whether an instructor is provided, the qualification and credentials of the instructor, the number of hours of instruction, and any other information required by the chancellor. The chancellor



may require course providers to include in their applications information recommended by the state board of education under former section 3353.30 of the Revised Code.

(C) The chancellor shall review the technical specifications of each application submitted under division (B) of this section. In reviewing applications, the chancellor may consult with the department of education; however, the responsibility to either approve or not approve a digital text or course for the clearinghouse belongs to the chancellor. The chancellor may request additional information from a provider that submits an application under division (B) of this section, if the chancellor determines that such information is necessary. The chancellor may negotiate changes in the proposal to offer a digital text or course, if the chancellor determines that changes are necessary in order to approve the digital text or course.

(D) The chancellor shall catalog each digital text or course approved for the clearinghouse, through a print or electronic medium, displaying the following:

(1) Information necessary for a student and the student's parent, guardian, or custodian and the student's school district, community school, STEM school, college, or university to decide whether to enroll in or subscribe to the course;

(2) Instructions for enrolling in that digital text or course, including deadlines for enrollment.

(E) Any expenses related to the installation of a course into the common statewide platform shall be borne by the course provider.

(F) The chancellor may contract with an entity to perform any or all of the chancellor's duties under sections 3333.81 to 3333.88 of the Revised Code.

**Sec. 3333.83.** (A) Each school district, community school, and STEM school shall encourage students to take advantage of the distance learning opportunities offered through the clearinghouse and shall assist any student electing to participate in the clearinghouse with the selection and scheduling of courses that satisfy the district's or school's curriculum requirements and promote the student's post-secondary college or career plans.

(B) For each student enrolled in a school operated by a school district or in a community school or STEM school who is enrolling in a course provided through the clearinghouse by another school district, community school, or STEM school, the student's school district, community school, or STEM school shall transmit the student's name to the course provider.

The course provider may request from the student's school district, community school, or STEM school other information from the student's school record. The district or school shall provide the requested information only in accordance with section 3319.321 of the Revised Code.

(C) The student's school district, community school, or STEM school shall determine the manner in which and facilities at which the student shall participate in the course consistent with specifications for technology and connectivity adopted by the chancellor of higher education.

(D) A student may withdraw from a course prior to the end of the course only by a date and in a manner prescribed by the student's school district, community school, or STEM school.

(E) A student who is enrolled in a school operated by a school district or in a community school or STEM school and who takes a course through the clearinghouse shall be counted in the formula ADM of a school district under section 3317.03 of the Revised Code as if the student were taking the course from the student's school district, community school, or STEM school.

**Sec. 3333.84.** (A) The fee charged for any digital text or course offered through the

clearinghouse shall be set by the provider.

(B) The chancellor of higher education shall prescribe the manner in which the fee for a digital text or course shall be collected or deducted from the school district, school, college or university, or individual subscribing to the digital text or course and in which manner the fee shall be paid to the provider.

(C) The chancellor may retain a percentage of the fee charged for a digital text or course to offset the cost of maintaining and operating the clearinghouse, including the payment of compensation for an entity or a private entity that is under contract with the chancellor under division (F) of section 3333.82 of the Revised Code. The percentage retained shall be determined by the chancellor.

(D) Nothing in this section shall be construed to require the school district, community school, or STEM school in which a student is enrolled to pay the fee charged for a digital text or course taken by the student.

**Sec. 3333.86.** The chancellor of higher education may determine the manner in which a course included in the clearinghouse may be offered as an advanced standing program as defined in section 3313.6013 of the Revised Code, may be offered to students who are enrolled in nonpublic schools or are instructed at home pursuant to section 3321.04 of the Revised Code, or may be offered at times outside the normal school day or school week, including any necessary additional fees and methods of payment for a course so offered.

**Sec. 3333.87.** The chancellor of higher education and the state board of education jointly, and in consultation with the director of the governor's office of 21st century education, shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures for the implementation of sections 3333.81 to 3333.86 of the Revised Code.

**Sec. 3333.90.** (A) The chancellor of higher education shall establish a course and program sharing network that enables members of the university system of Ohio and adult career centers to share curricula for existing courses and academic programs with one another. The purpose of the network shall be to increase course availability across the state and to avoid unnecessary course duplication through the sharing of existing curricula.

(B) The chancellor shall adopt rules to administer the course and program sharing network established under this section.

(C) As used in this section, "member of the university system of Ohio" has the same meaning as in section 3345.011 of the Revised Code.

**Sec. 3333.91.** The governor's office of workforce transformation, in collaboration with the chancellor of higher education, the superintendent of public instruction, and the department of job and family services, shall develop and submit to the appropriate federal agency a single, state unified plan required under the "Workforce Innovation and Opportunity Act," 29 U.S.C. 3101 et seq., which shall include the information required for the adult basic and literacy education program administered by the United States secretary of education and the "Carl D. Perkins Vocational and Technical Education Act," 20 U.S.C. 2301, et seq., as amended. Following the plan's initial submission to the appropriate federal agency, the governor's office of workforce transformation may update it as necessary. If the plan is updated, the governor's office of workforce transformation shall submit the updated plan to the appropriate federal agency.

**Sec. 3333.92.**

**Sec. 3334.08.** (A) Subject to division (B) of this section, in addition to any other powers conferred by this chapter, the Ohio tuition trust authority may do any of the following:

- (1) Impose reasonable residency requirements for beneficiaries of tuition units;
- (2) Impose reasonable limits on the number of tuition unit participants;
- (3) Impose and collect administrative fees and charges in connection with any transaction under this chapter;
- (4) Purchase insurance from insurers licensed to do business in this state providing for coverage against any loss in connection with the authority's property, assets, or activities or to further ensure the value of tuition units;
- (5) Indemnify or purchase policies of insurance on behalf of members, officers, and employees of the authority from insurers licensed to do business in this state providing for coverage for any liability incurred in connection with any civil action, demand, or claim against a director, officer, or employee by reason of an act or omission by the director, officer, or employee that was not manifestly outside the scope of the employment or official duties of the director, officer, or employee or with malicious purpose, in bad faith, or in a wanton or reckless manner;
- (6) Make, execute, and deliver contracts, conveyances, and other instruments necessary to the exercise and discharge of the powers and duties of the authority;
- (7) Promote, advertise, and publicize the Ohio college savings program and the variable college savings program;
- (8) Adopt rules under section 111.15 of the Revised Code for the implementation of the Ohio college savings program;
- (9) Contract, for the provision of all or part of the services necessary for the management and operation of the Ohio college savings program and the variable college savings program, with a bank, trust company, savings and loan association, insurance company, or licensed dealer in securities if the bank, company, association, or dealer is authorized to do business in this state and information about the contract is filed with the controlling board pursuant to division (D)(6) of section 127.16 of the Revised Code; provided, however, that any funds of the Ohio college savings program and the variable college savings program that are not needed for immediate use shall be deposited by the treasurer of state in the same manner provided under Chapter 135. of the Revised Code for public moneys of the state. All interest earned on those deposits shall be credited to the Ohio college savings program or the variable college savings program, as applicable.
- (10) Contract for other services, or for goods, needed by the authority in the conduct of its business, including but not limited to credit card services;
- (11) Employ an executive director and other personnel as necessary to carry out its responsibilities under this chapter, and fix the compensation of these persons. All employees of the authority shall be in the unclassified civil service and shall be eligible for membership in the public employees retirement system. In the hiring of the executive director, the Ohio tuition trust authority shall obtain the advice and consent of the Ohio tuition trust investment board created in section 3334.03 of the Revised Code, provided that the executive director shall not be hired unless a majority of the board votes in favor of the hiring. In addition, the board may remove the executive director at any time subject to the advice and consent of the chancellor of higher education.

(12) Contract with financial consultants, actuaries, auditors, and other consultants as necessary to carry out its responsibilities under this chapter;

(13) Enter into agreements with any agency of the state or its political subdivisions or with private employers under which an employee may agree to have a designated amount deducted in each payroll period from the wages or salary due the employee for the purpose of purchasing tuition units pursuant to a tuition payment contract or making contributions pursuant to a variable college savings program contract;

(14) Enter into an agreement with the treasurer of state under which the treasurer of state will receive, and credit to the Ohio tuition trust fund or variable college savings program fund, from any bank or savings and loan association authorized to do business in this state, amounts that a depositor of the bank or association authorizes the bank or association to withdraw periodically from the depositor's account for the purpose of purchasing tuition units pursuant to a tuition payment contract or making contributions pursuant to a variable college savings program contract;

(15) Solicit and accept gifts, grants, and loans from any person or governmental agency and participate in any governmental program;

(16) Impose limits on the number of units which may be purchased on behalf of or assigned or awarded to any beneficiary and on the total amount of contributions that may be made on behalf of a beneficiary;

(17) Impose restrictions on the substitution of another individual for the original beneficiary under the Ohio college savings program;

(18) Impose a limit on the age of a beneficiary, above which tuition units may not be purchased on behalf of that beneficiary;

(19) Enter into a cooperative agreement with the treasurer of state to provide for the direct disbursement of payments under tuition payment or variable college savings program contracts;

(20) Terminate any tuition payment or variable college savings program contract if no purchases or contributions are made for a period of three years or more and there are fewer than a total of five tuition units or less than a dollar amount set by rule on account, provided that notice of a possible termination shall be provided in advance, explaining any options to prevent termination, and a reasonable amount of time shall be provided within which to act to prevent a termination;

(21) Maintain a separate account for each tuition payment or variable college savings program contract;

(22) Perform all acts necessary and proper to carry out the duties and responsibilities of the authority pursuant to this chapter.

(B) The authority shall adopt rules under section 111.15 of the Revised Code for the implementation and administration of the variable college savings program. The rules shall provide taxpayers with the maximum tax advantages and flexibility consistent with section 529 of the Internal Revenue Code and regulations adopted thereunder with regard to disposition of contributions and earnings, designation of beneficiaries, and rollover of account assets to other programs.

(C) Except as otherwise specified in this chapter, the provisions of Chapters 123. and 4117. of the Revised Code shall not apply to the authority and Chapter 125. of the Revised Code shall not apply to contracts approved under the powers of the Ohio tuition trust authority investment board under section 3334.03 of the Revised Code.

**Sec. 3335.02.** (A) The government of the Ohio state university shall be vested in a board of fourteen trustees in 2005, and seventeen trustees beginning in 2006, who shall be appointed by the governor, with the advice and consent of the senate. Two of the seventeen trustees shall be students at the Ohio state university, and their selection and terms shall be in accordance with division (B) of this section. Except as provided in division (D) of this section and except for the terms of student members, terms of office shall be for nine years, commencing on the fourteenth day of May and ending on the thirteenth day of May. Each trustee shall hold office from the date of appointment until the end of the term for which the trustee was appointed. Any trustee appointed to fill a vacancy occurring prior to the expiration of the term for which the trustee's predecessor was appointed shall hold office for the remainder of such term. Any trustee shall continue in office subsequent to the expiration date of the trustee's term until the trustee's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. No person who has served a full nine-year term or more than six years of such a term shall be eligible for reappointment until a period of four years has elapsed since the last day of the term for which the person previously served. The trustees shall not receive compensation for their services, but shall be paid their reasonable necessary expenses while engaged in the discharge of their official duties.

(B) The student members of the board of trustees of the Ohio state university shall be students at the Ohio state university. Unless student members have been granted voting power under division (C) of this section, they shall have no voting power on the board, shall not be considered as members of the board in determining whether a quorum is present, and shall not be entitled to attend executive sessions of the board. The student members of the board shall be appointed by the governor, with the advice and consent of the senate, from a group of five candidates selected pursuant to a procedure adopted by the university's student governments and approved by the university's board of trustees. The initial term of office of one of the student members shall commence on May 14, 1988, and shall expire on May 13, 1989, and the initial term of office of the other student member shall commence on May 14, 1988, and expire on May 13, 1990. Thereafter, terms of office of student members shall be for two years, each term ending on the same day of the same month of the year as the term it succeeds. In the event a student member cannot fulfill a two-year term, a replacement shall be selected to fill the unexpired term in the same manner used to make the original selection.

(C) Not later than ninety days after ~~the effective date of this amendment~~ September 29, 2015, the board of trustees shall adopt a resolution that does one of the following:

(1) Grants the student members of the board voting power on the board. If so granted, in addition to having voting power, the student members shall be considered as members of the board in determining whether a quorum is present and shall be entitled to attend executive sessions of the board.

(2) Declares that student members do not have voting power on the board.

Thereafter, the board may change the voting status of student trustees by adopting a subsequent resolution. Each resolution adopted under this division shall take effect on the fourteenth day of May following the adoption of the resolution. All members with voting power at the time of the adoption of a resolution may vote on the resolution.

If student members are granted voting power under this division, no student shall be

disqualified from membership on the board of trustees because the student receives a scholarship, grant, loan, or any other financial assistance payable out of the state treasury or a university fund, or because the student is employed by the university in a position pursuant to a work-study program or other student employment, including as a graduate teaching assistant, graduate administrative assistant, or graduate research assistant, the compensation for which is payable out of the state treasury or a university fund.

Acceptance of such financial assistance or employment by a student trustee shall not be considered a violation of Chapter 102. or section 2921.42 or 2921.43 of the Revised Code.

(D)(1) The initial terms of office for the three additional trustees appointed in 2005 shall commence on a date in 2005 that is selected by the governor with one term of office expiring on May 13, 2009, one term of office expiring on May 13, 2010, and one term of office expiring on May 13, 2011, as designated by the governor upon appointment. Thereafter terms of office shall be for nine years, as provided in division (A) of this section.

(2) The initial terms of office for the three additional trustees appointed in 2006 shall commence on May 14, 2006, with one term of office expiring on May 13, 2012, one term of office expiring on May 13, 2013, and one term of office expiring on May 13, 2014, as designated by the governor upon appointment. Thereafter terms of office shall be for nine years, as provided in division (A) of this section.

**Sec. 3335.09.** The board of trustees of the Ohio state university shall elect, fix the compensation of, and remove, the president and such number of professors, teachers, and other employees as are necessary. Except as provided under division (C) of section 3335.02 of the Revised Code, no trustee, or relative of a trustee by blood or marriage, shall be eligible to a professorship or position in the university, the compensation for which is payable out of the state treasury or a university fund. The board shall fix and regulate the course of instruction and prescribe the extent and character of experiments to be made at the university.

**Sec. 3335.361.**

**Sec. 3337.10.** There is hereby established the Ohio university college of osteopathic medicine the purpose of which shall be to provide instruction in the practice of osteopathic medicine. The college shall be a component college of Ohio university. The clinical instruction portions of the medical program shall be provided through the facilities of existing osteopathic and joint staff hospitals.

**Sec. 3345.022.** The board of trustees of any college or university supported in part or in whole by state funds, or two or more such boards, may enter into a contract, upon such terms as shall be determined to be in the best interests of students, for the provision of legal services to students through a group legal services insurance plan approved by the superintendent of insurance or through a prepaid legal services plan established by attorneys admitted to the practice of law in this state. The fees or charges to students who participate in the plan shall be established by the board or boards and shall be sufficient to defray the college's or university's cost of administering the plan. No student shall be required to pay any such fee or charge unless the student elects to participate in the plan, and no revenue from any other student fees or charges shall be used to finance any portion of the cost of any plan or the college's or university's cost of administering the plan. Legal representation under the plan shall be limited to services determined by the board to be reasonably related to student welfare,

to the advancement or successful completion of student education, or to serve a public purpose within the powers of the college or university.

A plan shall not provide or pay for the cost of representation of a student in an action against a state officer or agency arising out of the performance of the duties of the officer or agency, against a law enforcement officer arising out of the performance of the duties of the officer, against a college or university participating in the plan, against a student of such a college or university, or against the chancellor of higher education or a member of the board of regents or of the board of trustees, faculty, or staff of such a college or university, if the cause of action arises out of the performance of the duties of the office of the member or in the course of the member's employment by the college or university. As used in this section, "law enforcement officer" means a sheriff, deputy sheriff, constable, marshal, deputy marshal, municipal police officer, state highway patrol trooper, or state university law enforcement officer appointed under section 3345.04 of the Revised Code.

**Sec. 3345.05.** (A) All registration fees, nonresident tuition fees, academic fees for the support of off-campus instruction, laboratory and course fees when so assessed and collected, student health fees for the support of a student health service, all other fees, deposits, charges, receipts, and income from all or part of the students, all subsidy or other payments from state appropriations, and all other fees, deposits, charges, receipts, income, and revenue received by each state institution of higher education, the Ohio state university hospitals and their ancillary facilities, the Ohio agricultural research and development center, and OSU extension shall be held and administered by the respective boards of trustees of the state institution of higher education; provided, that such fees, deposits, charges, receipts, income and revenue, to the extent required by resolutions, trust agreements, indentures, leases, and agreements adopted, made, or entered into under Chapter 154. or section 3345.07, 3345.11, or 3345.12 of the Revised Code, shall be held, administered, transferred, and applied in accordance therewith.

(B) The chancellor of higher education shall require annual reporting by the Ohio agricultural research and development center and by each university and college receiving state aid in such form and detail as determined by the chancellor of higher education in consultation with such center, universities and colleges, and the director of budget and management.

(C) Notwithstanding any provision of the Revised Code to the contrary, the title to investments made by the board of trustees of a state institution of higher education with funds derived from any of the sources described in division (A) of this section shall not be vested in the state or the political subdivision but shall be held in trust by the board. Such investments shall be made pursuant to an investment policy adopted by the board in public session that requires all fiduciaries to discharge their duties with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. The policy also shall require at least the following:

(1) A stipulation that investment of at least twenty-five per cent of the average amount of the investment portfolio over the course of the previous fiscal year be invested in securities of the United States government or of its agencies or instrumentalities, the treasurer of state's pooled investment program, obligations of this state or any political subdivision of this state, certificates of deposit of any national bank located in this state, written repurchase agreements with any eligible Ohio

financial institution that is a member of the federal reserve system or federal home loan bank, money market funds, or bankers acceptances maturing in two hundred seventy days or less which are eligible for purchase by the federal reserve system, as a reserve;

(2) Eligible funds above those that meet the conditions of division (C)(1) of this section may be pooled with other institutional funds and invested in accordance with section 1715.52 of the Revised Code.

(3) The establishment of an investment committee.

(D) The investment committee established under division (C)(3) of this section shall meet at least quarterly. The committee shall review and recommend revisions to the board's investment policy and shall advise the board on its investments made under division (C) of this section in an effort to assist it in meeting its obligations as a fiduciary as described in division (C) of this section. The committee shall be authorized to retain the services of an investment advisor who meets both of the following qualifications:

(1) The advisor is either:

(a) Licensed by the division of securities under section 1707.141 of the Revised Code;

(b) Registered with the securities and exchange commission.

(2) The advisor either:

(a) Has experience in the management of investments of public funds, especially in the investment of state-government investment portfolios;

(b) Is an eligible institution referenced in section 135.03 of the Revised Code.

(E) As used in this section, "state institution of higher education" means a state institution of higher education as defined in section 3345.011 of the Revised Code.

**Sec. 3345.06.** (A) Subject to divisions (B) and (C) of this section, a graduate of the twelfth grade shall be entitled to admission without examination to any college or university which is supported wholly or in part by the state, but for unconditional admission may be required to complete such units not included in the graduate's high school course as may be prescribed, not less than two years prior to the graduate's entrance, by the faculty of the institution.

(B) Beginning with the 2014-2015 academic year, each state university listed in section 3345.011 of the Revised Code, except for Central state university, Shawnee state university, and Youngstown state university, shall permit a resident of this state who entered ninth grade for the first time on or after July 1, 2010, to begin undergraduate coursework at the university only if the person has successfully completed the requirements for high school graduation prescribed in division (C) of section 3313.603 of the Revised Code, unless one of the following applies:

(1) The person has earned at least ten semester hours, or the equivalent, at a community college, state community college, university branch, technical college, or another post-secondary institution except a state university to which division (B) of this section applies, in courses that are college-credit-bearing and may be applied toward the requirements for a degree. The university shall grant credit for successful completion of those courses pursuant to any applicable articulation and transfer policy of the chancellor of higher education or any agreements the university has entered into in accordance with policies and procedures adopted under section 3333.16, 3333.161, or 3333.162 of the Revised Code. The university may count college credit that the student earned while in high school through the college credit plus program under Chapter 3365. of the Revised Code, or through



other advanced standing programs, toward the requirements of division (B)(1) of this section if the credit may be applied toward a degree.

(2) The person qualified to graduate from high school under division (D) or (F) of section 3313.603 of the Revised Code and has successfully completed the topics or courses that the person lacked to graduate under division (C) of that section at any post-secondary institution or at a summer program at the state university. A state university may admit a person for enrollment contingent upon completion of such topics or courses or summer program.

(3) The person met the high school graduation requirements by successfully completing the person's individualized education program developed under section 3323.08 of the Revised Code.

(4) The person is receiving or has completed the final year of instruction at home as authorized under section 3321.04 of the Revised Code, or has graduated from a nonchartered, nonpublic school in Ohio, and demonstrates mastery of the academic content and skills in reading, writing, and mathematics needed to successfully complete introductory level coursework at an institution of higher education and to avoid remedial coursework.

(5) The person is a high school student participating in the college credit plus program under Chapter 3365. of the Revised Code or another advanced standing program.

(C) A state university subject to division (B) of this section may delay admission for or admit conditionally an undergraduate student who has successfully completed the requirements prescribed in division (C) of section 3313.603 of the Revised Code if the university determines the student requires academic remedial or developmental coursework. The university may delay admission pending, or make admission conditional upon, the student's successful completion of the academic remedial or developmental coursework at a university branch, community college, state community college, or technical college.

(D) This section does not deny the right of a college of law, medicine, or other specialized education to require college training for admission, or the right of a department of music or other art to require particular preliminary training or talent.

**Sec. 3345.061.** (A) Ohio's two-year institutions of higher education are respected points of entry for students embarking on post-secondary careers and courses completed at those institutions are transferable to state universities in accordance with articulation and transfer agreements developed under sections 3333.16, 3333.161, and 3333.162 of the Revised Code.

(B) Beginning with undergraduate students who commence undergraduate studies in the 2014-2015 academic year, no state university listed in section 3345.011 of the Revised Code, except Central state university, Shawnee state university, and Youngstown state university, shall receive any state operating subsidies for any academic remedial or developmental courses for undergraduate students, including courses prescribed in division (C) of section 3313.603 of the Revised Code, offered at its main campus, except as provided in divisions (B)(1) to (4) of this section.

(1) In the 2014-2015 and 2015-2016 academic years, a state university may receive state operating subsidies for academic remedial or developmental courses completed at the main campus for not more than three per cent of the total undergraduate credit hours provided by the university at its main campus.

(2) In the 2016-2017 academic year, a state university may receive state operating subsidies for academic remedial or developmental courses completed at the main campus for not more than

fifteen per cent of the first-year students who have graduated from high school within the previous twelve months and who are enrolled in the university at its main campus, as calculated on a full-time-equivalent basis.

(3) In the 2017-2018 academic year, a state university may receive state operating subsidies for academic remedial or developmental courses completed at the main campus for not more than ten per cent of the first-year students who have graduated from high school within the previous twelve months and who are enrolled in the university at its main campus, as calculated on a full-time-equivalent basis.

(4) In the 2018-2019 academic year, a state university may receive state operating subsidies for academic remedial or developmental courses completed at the main campus for not more than five per cent of the first-year students who have graduated from high school within the previous twelve months and who are enrolled in the university at its main campus, as calculated on a full-time-equivalent basis.

Each state university may continue to offer academic remedial and developmental courses at its main campus beyond the extent for which state operating subsidies may be paid under this division and may continue to offer such courses beyond the 2018-2019 academic year. However, the main campus of a state university shall not receive any state operating subsidies for such courses above the maximum amounts permitted in this division.

(C) Except as otherwise provided in division (B) of this section, beginning with students who commence undergraduate studies in the 2014-2015 academic year, state operating subsidies for academic remedial or developmental courses offered by state institutions of higher education may be paid only to Central state university, Shawnee state university, Youngstown state university, any university branch, any community college, any state community college, or any technical college.

(D) Each state university shall grant credit for academic remedial or developmental courses successfully completed at an institution described in division (C) of this section pursuant to any applicable articulation and transfer agreements the university has entered into in accordance with policies and procedures adopted under section 3333.16, 3333.161, or 3333.162 of the Revised Code.

(E) The chancellor of higher education shall do all of the following:

(1) Withhold state operating subsidies for academic remedial or developmental courses provided by a main campus of a state university as required in order to conform to divisions (B) and (C) of this section;

(2) Adopt uniform statewide standards for academic remedial and developmental courses offered by all state institutions of higher education;

(3) Encourage and assist in the design and establishment of academic remedial and developmental courses by institutions of higher education;

(4) Define "academic year" for purposes of this section and section 3345.06 of the Revised Code;

(5) Encourage and assist in the development of articulation and transfer agreements between state universities and other institutions of higher education in accordance with policies and procedures adopted under sections 3333.16, 3333.161, and 3333.162 of the Revised Code.

(F) Not later than December 31, 2012, the presidents, or equivalent position, of all state institutions of higher education, or their designees, jointly shall establish uniform statewide standards

in mathematics, science, reading, and writing each student enrolled in a state institution of higher education must meet to be considered in remediation-free status. The presidents also shall establish assessments, if they deem necessary, to determine if a student meets the standards adopted under this division. Each institution is responsible for assessing the needs of its enrolled students in the manner adopted by the presidents. The board of trustees or managing authority of each state institution of higher education shall adopt the remediation-free status standard, and any related assessments, into the institution's policies.

The chancellor shall assist in coordinating the work of the presidents under this division. The chancellor shall monitor the standards in mathematics, science, reading, and writing established under division (F) of this section to ensure that the standards adequately demonstrate a student's remediation-free status.

(G) Each year, not later than a date established by the chancellor, each state institution of higher education shall report to the governor, the general assembly, the chancellor, and the superintendent of public instruction all of the following for the prior academic year:

(1) The institution's aggregate costs for providing academic remedial or developmental courses;

(2) The amount of those costs disaggregated according to the city, local, or exempted village school districts from which the students taking those courses received their high school diplomas;

(3) Any other information with respect to academic remedial and developmental courses that the chancellor considers appropriate.

(H) Not later than December 31, 2011, and the thirty-first day of each December thereafter, the chancellor and the superintendent of public instruction shall issue a report recommending policies and strategies for reducing the need for academic remediation and developmental courses at state institutions of higher education.

(I) As used in this section, "state institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

**Sec. 3345.311.**

**Sec. 3345.32.** (A) As used in this section:

(1) "State university or college" means the institutions described in section 3345.27 of the Revised Code and the northeast Ohio medical university.

(2) "Resident" has the meaning specified by rule of the chancellor of higher education.

(3) "Statement of selective service status" means a statement certifying one of the following:

(a) That the individual filing the statement has registered with the selective service system in accordance with the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as amended;

(b) That the individual filing the statement is not required to register with the selective service for one of the following reasons:

(i) The individual is under eighteen or over twenty-six years of age.

(ii) The individual is on active duty with the armed forces of the United States other than for training in a reserve or national guard unit.

(iii) The individual is a nonimmigrant alien lawfully in the United States in accordance with section 101 (a)(15) of the "Immigration and Nationality Act," 8 U.S.C. 1101, as amended.

(iv) The individual is not a citizen of the United States and is a permanent resident of the

Trust Territory of the Pacific Islands or the Northern Mariana Islands.

(4) "Institution of higher education" means any eligible institution approved by the United States department of education pursuant to the "Higher Education Act of 1965," 79 Stat. 1219, as amended, or any institution whose students are eligible for financial assistance under any of the programs described by division (E) of this section.

(B) The chancellor shall, by rule, specify the form of statements of selective service status to be filed in compliance with divisions (C) to (E) of this section. Each statement of selective service status shall contain a section wherein a male student born after December 31, 1959, certifies that the student has registered with the selective service system in accordance with the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as amended. For those students not required to register with the selective service, as specified in divisions (A)(2)(b)(i) to (iv) of this section, a section shall be provided on the statement of selective service status for the certification of nonregistration and for an explanation of the reason for the exemption. The chancellor may require that such statements be accompanied by documentation specified by rule of the chancellor.

(C) A state university or college that enrolls in any course, class, or program a male student born after December 31, 1959, who has not filed a statement of selective service status with the university or college shall, regardless of the student's residency, charge the student any tuition surcharge charged students who are not residents of this state.

(D) No male born after December 31, 1959, shall be eligible to receive any loan, grant, scholarship, or other financial assistance for educational expenses granted under section 3315.33, 3333.12, 3333.122, 3333.21, 3333.22, 3333.26, 3333.391, 5910.03, 5910.032, or 5919.34 of the Revised Code, financed by an award under the choose Ohio first scholarship program established under section 3333.61 of the Revised Code, or financed by an award under the Ohio co-op/internship program established under section 3333.72 of the Revised Code, unless that person has filed a statement of selective service status with that person's institution of higher education.

(E) If an institution of higher education receives a statement from an individual certifying that the individual has registered with the selective service system in accordance with the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as amended, or that the individual is exempt from registration for a reason other than that the individual is under eighteen years of age, the institution shall not require the individual to file any further statements. If it receives a statement certifying that the individual is not required to register because the individual is under eighteen years of age, the institution shall require the individual to file a new statement of selective service status each time the individual seeks to enroll for a new academic term or makes application for a new loan or loan guarantee or for any form of financial assistance for educational expenses, until it receives a statement certifying that the individual has registered with the selective service system or is exempt from registration for a reason other than that the individual is under eighteen years of age.

**Sec. 3345.35.**

**Sec. 3345.38.**

**Sec. 3345.39.**

**Sec. 3345.421.** Not later than December 31, 2014, the board of trustees of each state institution of higher education, as defined in section 3345.011 of the Revised Code, shall do all of the following:

(A) Designate at least one person employed by the institution to serve as the contact person for veterans and service member affairs. Such a person shall assist and advise veterans and service members on issues related to earning college credit for military training, experience, and coursework.

(B) Adopt a policy regarding the support and assistance the institution will provide to veterans and service members.

(C) Allow for the establishment of a student-led group on campus for student service members and veterans and encourage other service member- and veteran-friendly organizations.

(D) Integrate existing career services to create and encourage meaningful collaborative relationships between student service members and veterans and alumni of the institution, that links student service members and veterans with prospective employers, and that provides student service members and veterans with social opportunities; and, if the institution has career services programs, encourage the responsible office to seek and promote partnership opportunities for internships and employment of student service members and veterans with state, local, national, and international employers.

(E) Survey student service members and veterans to identify their needs and challenges and make the survey available to faculty and staff at the state institution of higher education. And periodically conduct follow-up surveys, at a frequency determined by the board, to gauge the institution's progress toward meeting identified needs and challenges.

The chancellor of higher education shall provide guidance to state institutions of higher education in their compliance with this section, including the recommendation of standardized policies on support and assistance to veterans and service members.

The person or persons designated under division (A) of this section shall not be a person currently designated by the institution as a veterans administration certifying official.

**Sec. 3345.45.** (A) On or before January 1, 1994, the chancellor of higher education jointly with all state universities, as defined in section 3345.011 of the Revised Code, shall develop standards for instructional workloads for full-time and part-time faculty in keeping with the universities' missions and with special emphasis on the undergraduate learning experience. The standards shall contain clear guidelines for institutions to determine a range of acceptable undergraduate teaching by faculty.

(B) On or before June 30, 1994, the board of trustees of each state university shall take formal action to adopt a faculty workload policy consistent with the standards developed under this section. Notwithstanding section 4117.08 of the Revised Code, the policies adopted under this section are not appropriate subjects for collective bargaining. Notwithstanding division (A) of section 4117.10 of the Revised Code, any policy adopted under this section by a board of trustees prevails over any conflicting provisions of any collective bargaining agreement between an employees organization and that board of trustees.

(C)(1) The board of trustees of each state university shall review the university's policy on faculty tenure and update that policy to promote excellence in instruction, research, service, or commercialization, or any combination thereof.

(2) Beginning on July 1, 2018, as a condition for a state university to receive any state funds for research that are allocated to the department of higher education under the appropriation line items referred to as either "research incentive third frontier fund" or "research incentive third frontier-

tax," the chancellor shall require the university to include multiple pathways for faculty tenure, one of which may be a commercialization pathway, in its policy.

**Sec. 3345.46.**

**Sec. 3345.47.**

**Sec. 3345.48.** (A) As used in this section:

(1) "Cohort" means a group of students who will complete their bachelor's degree requirements and graduate from a state university at the same time. A cohort may include transfer students and other selected undergraduate student academic programs as determined by the board of trustees of a state university.

(2) "Eligible student" means an undergraduate student who:

(a) Is enrolled full-time in a bachelor's degree program at a state university;

(b) Is a resident of this state, as defined by the chancellor of higher education under section 3333.31 of the Revised Code.

(3) "State university" has the same meaning as in section 3345.011 of the Revised Code.

(B) The board of trustees of a state university may establish an undergraduate tuition guarantee program that allows eligible students in the same cohort to pay a fixed rate for general and instructional fees for four years. A board of trustees may include room and board and any additional fees in the program.

If the board of trustees chooses to establish such a program, the board shall adopt rules for the program that include, but are not limited to, all of the following:

(1) The number of credit hours required to earn an undergraduate degree in each major;

(2) A guarantee that the general and instructional fees for each student in the cohort shall remain constant for four years so long as the student complies with the requirements of the program, except that, notwithstanding any law to the contrary, the board may increase the guaranteed amount by up to six per cent above what has been charged in the previous academic year one time for the first cohort enrolled under the tuition guarantee program. If the board of trustees determines that economic conditions or other circumstances require an increase for the first cohort of above six per cent, the board shall submit a request to increase the amount by a specified percentage to the chancellor. The chancellor, based on information the chancellor requires from the board of trustees, shall approve or disapprove such a request. Thereafter, the board of trustees may increase the guaranteed amount by up to the sum of the following above what has been charged in the previous academic year one time per subsequent cohort:

(a) The average rate of inflation, as measured by the consumer price index prepared by the bureau of labor statistics of the United States department of labor (all urban consumers, all items), for the previous sixty-month period; and

(b) The percentage amount the general assembly restrains increases on in-state undergraduate instructional and general fees for the applicable fiscal year. If the general assembly does not enact a limit on the increase of in-state undergraduate instructional and general fees, then no limit shall apply under this division for the cohort that first enrolls in any academic year for which the general assembly does not prescribe a limit.

If, beginning with the academic year that starts four years after September 29, 2013, the board of trustees determines that the general and instructional fees charged under the tuition

guarantee have fallen significantly lower than those of other state universities, the board of trustees may submit a request to increase the amount charged to a cohort by a specified percentage to the chancellor, who shall approve or disapprove such a request.

(3) A benchmark by which the board sets annual increases in general and instructional fees. This benchmark and any subsequent change to the benchmark shall be subject to approval of the chancellor.

(4) Eligibility requirements for students to participate in the program;

(5) Student rights and privileges under the program;

(6) Consequences to the university for students unable to complete a degree program within four years, as follows:

(a) For a student who could not complete the program in four years due to a lack of available classes or space in classes provided by the university, the university shall provide the necessary course or courses for completion to the student free of charge.

(b) For a student who could not complete the program in four years due to military service or other circumstances beyond a student's control, as determined by the board of trustees, the university shall provide the necessary course or courses for completion to the student at the student's initial cohort rate.

(c) For a student who did not complete the program in four years for any other reason, as determined by the board of trustees, the university shall provide the necessary course or courses for completion to the student at a rate determined through a method established by the board under division (B)(7) of this section.

(7) Guidelines for adjusting a student's annual charges if the student, due to circumstances under the student's control, is unable to complete a degree program within four years;

(8) A requirement that the rules adopted under division (B) of this section be published or posted in the university handbook, course catalog, and web site.

(C) If a board of trustees implements a program under this section, the board shall submit the rules adopted under division (B) of this section to the chancellor for approval before beginning implementation of the program.

The chancellor shall not unreasonably withhold approval of a program if the program conforms in principle with the parameters and guidelines of this section.

(D) A board of trustees of a state university may establish an undergraduate tuition guarantee program for nonresident students.

(E) Within five years after September 29, 2013, the chancellor shall publish on the chancellor's web site a report that includes all of the following:

(1) The state universities that have adopted an undergraduate tuition guarantee program under this section;

(2) The details of each undergraduate tuition guarantee program established under this section;

(3) Comparative data, including general and instructional fees, room and board, graduation rates, and retention rates, from all state universities.

(F) Except as provided in this section, no other limitation on the increase of in-state undergraduate instructional and general fees shall apply to a state university that has established an

undergraduate tuition guarantee program under this section.

**Sec. 3345.50.** Notwithstanding anything to the contrary in sections 123.01 and 123.10 of the Revised Code, a state university, a state community college, or the northeast Ohio medical university not certified pursuant to section 123.24 of the Revised Code may administer any capital facilities project for the construction, reconstruction, improvement, renovation, enlargement, or alteration of a public improvement under its jurisdiction for which the total amount of funds expected to be appropriated by the general assembly does not exceed four million dollars without the supervision, control, or approval of the Ohio facilities construction commission as specified in those sections, if both of the following occur:

(A) Within sixty days after the effective date of the section of an act in which the general assembly initially makes an appropriation for the project, the board of trustees of the institution notifies the chancellor of higher education in writing of its intent to administer the capital facilities project;

(B) The board of trustees complies with the guidelines established pursuant to section 153.16 of the Revised Code and all laws that govern the selection of consultants, preparation and approval of contract documents, receipt of bids, and award of contracts with respect to the project.

The chancellor shall adopt rules in accordance with Chapter 119. of the Revised Code that establish criteria for the administration by any such institution of higher education of a capital facilities project for which the total amount of funds expected to be appropriated by the general assembly exceeds four million dollars. The criteria, to be developed with the Ohio facilities construction commission and higher education representatives selected by the chancellor, shall include such matters as the adequacy of the staffing levels and expertise needed for the institution to administer the project, past performance of the institution in administering such projects, and the amount of institutional or other nonstate money to be used in financing the project. The chancellor and the Ohio facilities construction commission shall approve the request of any such institution of higher education that seeks to administer any such capital facilities project and meets the criteria set forth in the rules and in the requirements of division (B) of this section.

**Sec. 3345.51.** (A) Notwithstanding anything to the contrary in sections 123.20 and 123.21 of the Revised Code, a state university, the northeast Ohio medical university, or a state community college may administer any capital facilities project for the construction, reconstruction, improvement, renovation, enlargement, or alteration of a public improvement under its jurisdiction for which funds are appropriated by the general assembly without the supervision, control, or approval of the Ohio facilities construction commission as specified in those sections, if all of the following occur:

(1) The institution is certified by the commission under section 123.24 of the Revised Code;

(2) Within sixty days after the effective date of the section of an act in which the general assembly initially makes an appropriation for the project, the board of trustees of the institution notifies the chancellor of higher education in writing of its request to administer the capital facilities project and the chancellor approves that request pursuant to division (B) of this section;

(3) The board of trustees passes a resolution stating its intent to comply with section 153.13 of the Revised Code and the guidelines established pursuant to section 153.16 of the Revised Code and all laws that govern the selection of consultants, preparation and approval of contract documents,



receipt of bids, and award of contracts with respect to the project.

(B) The chancellor shall adopt rules in accordance with Chapter 119. of the Revised Code that establish criteria for the administration by any such institution of higher education of a capital facilities project for which the general assembly appropriates funds. The criteria, to be developed with the commission and higher education representatives selected by the chancellor, shall include such matters as the adequacy of the staffing levels and expertise needed for the institution to administer the project, past performance of the institution in administering such projects, and the amount of institutional or other nonstate money to be used in financing the project. The chancellor shall approve the request of any such institution of higher education that seeks to administer any such capital facilities project and meets the criteria set forth in the rules and the requirements of division (A) of this section.

(C) Any institution that administers a capital facilities project under this section shall conduct biennial audits for the duration of the project to ensure that the institution is complying with Chapters 9., 123., and 153. of the Revised Code and that the institution is using its certification issued under section 123.24 of the Revised Code appropriately. The chancellor, in consultation with higher education representatives selected by the chancellor, shall adopt rules in accordance with Chapter 119. of the Revised Code that establish criteria for the conduct of the audits. The criteria shall include documentation necessary to determine compliance with Chapters 9., 123., and 153. of the Revised Code and a method to determine whether an institution is using its certification issued under section 123.24 of the Revised Code appropriately.

(D) The chancellor, in consultation with higher education representatives selected by the chancellor, shall adopt rules in accordance with Chapter 119. of the Revised Code establishing criteria for monitoring capital facilities projects administered by institutions under this section. The criteria shall include the following:

(1) Conditions under which the chancellor may revoke the authority of an institution to administer a capital facilities project under this section, including the failure of an institution to maintain a sufficient number of employees who have successfully completed the certification program under section 123.24 of the Revised Code;

(2) A process for institutions to remedy any problems found by an audit conducted pursuant to division (C) of this section, including the improper use of state funds or violations of Chapter 9., 123., or 153. of the Revised Code.

(E) If the chancellor revokes an institution's authority to administer a capital facilities project, the commission shall administer the capital facilities project. The chancellor also may require an institution, for which the chancellor revoked authority to administer a capital facilities project, to acquire a new local administration competency certification pursuant to section 123.24 of the Revised Code.

**Sec. 3345.54.** (A) As used in this section:

(1) "Auxiliary facilities" has the same meaning as in section 3345.12 of the Revised Code.

(2) "Conduit entity" means an organization described in section 501(c)(3) of the Internal Revenue Code qualified as a public charity under section 509(a)(2) or 509(a)(3) of the Internal Revenue Code, or any other appropriate legal entity selected by the state institution, whose corporate purpose allows it to perform the functions and obligations of a conduit entity pursuant to the terms of

a financing agreement.

(3) "Conveyed property" means auxiliary facilities conveyed by a state institution to a conduit entity pursuant to a financing agreement.

(4) "Financing agreement" means a contract described in division (C) of this section.

(5) "Independent funding source" means a private entity that enters into a financing agreement with a conduit entity and a state institution.

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

(B) The board of trustees of a state institution, with the approval of the chancellor of higher education and the controlling board, may enter into a financing agreement with a conduit entity and an independent funding source selected either through a competitive selection process or by direct negotiations, and may convey to the conduit entity title to any auxiliary facilities owned by the state institution pursuant to the terms of a financing agreement.

(C) A financing agreement under this section is a written contract entered into among a state institution, a conduit entity, and an independent funding source that provides for:

(1) The conveyance of auxiliary facilities owned by a state institution to the conduit entity for consideration deemed adequate by the state institution;

(2) The lease of the conveyed property by the conduit entity to the independent funding source and leaseback of the conveyed property to the conduit entity for a term not to exceed ninety-nine years;

(3) Such other terms and conditions that may be negotiated and agreed upon by the parties, including, but not limited to, terms regarding:

(a) Payment to the state institution by the conduit entity of revenues received by it from the operations of the conveyed property in excess of the payments it is required to make to the independent funding source under the lease-leaseback arrangement described in division (C)(2) of this section;

(b) Pledge, assignment, or creation of a lien in favor of the independent funding source by the conduit entity of any revenues derived from the conveyed property;

(c) Reverter or conveyance of title to the conveyed property to the state institution when the conveyed property is no longer subject to a lease with the independent funding source.

(4) Terms and conditions required by the chancellor or the controlling board as a condition of approval of the financing agreement.

(D) The state institution and the conduit entity may enter into such other management agreements or other contracts regarding the conveyed property the parties deem appropriate, including agreements pursuant to which the state institution may maintain or administer the conveyed property and collect and disburse revenues from the conveyed property on behalf of the conduit entity.

(E) The parties may modify or extend the term of the financing agreement with the approval of the chancellor and the controlling board.

(F) The conveyed property shall retain its exemption from property taxes and assessments as though title to the conveyed property were held by the state institution during any part of a tax year that title is held by the state institution or the conduit entity and, if held by the conduit entity, remains

subject to the lease-leaseback arrangement described in division (C)(2) of this section. However, as a condition of the continued exemption of the conveyed property during the term of the lease-leaseback arrangement the conduit entity shall apply for and maintain the exemption as provided by law.

(G) Nothing in this section is intended to abrogate, amend, limit, or replace any existing authority state institutions may have with respect to the conveyance, lease, lease-leaseback, finance, or acquisition of auxiliary facilities including, but not limited to, authority granted under sections 3345.07, 3345.11, and 3345.12 of the Revised Code.

**Sec. 3345.692.** (A) Not later than September 15, 2010, and the fifteenth day of September each year thereafter, a state institution of higher education shall prepare and submit to the chancellor of higher education a report that describes the number and types of biobased products purchased under section 125.092 of the Revised Code and the amount of money spent by the state institution of higher education for those biobased products.

(B) As used in this section, "state institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

**Sec. 3345.70.** (A) Whenever the board of trustees of a state university, as defined under section 3345.011 of the Revised Code, declares that the university is in a state of fiscal exigency, the board shall do all of the following until it declares that the university is no longer in such a state:

(1) File quarterly reports on an annualized budget, comparing the budget to actual spending with projected expenses for the remainder of the year. Such reports shall include narrative explanations as appropriate.

(2) Place all residence hall and meal fees in a rotary account dedicated to the upkeep and maintenance of the dormitory buildings and to fund meal programs;

(3) Place moneys for the operation of residence hall and meal programs in separately maintained auxiliary funds in the university accounting system;

(4) File the minutes from their board of trustees meetings with the chancellor of higher education within thirty days of their meetings.

(B) No state university described under division (A) of this section shall do any of the following:

(1) Use state funds for the purpose of providing grants or scholarships to out-of-state students;

(2) Use state funds to subsidize off-campus housing or subsidize transportation to and from off-campus housing.

(C) The requirements of divisions (A)(2) and (3) of this section are subject to the provisions of any applicable bond proceedings as defined under division (A)(9) of section 3345.12 of the Revised Code and to any applicable pledge made as authorized by division (R) of section 3345.12 of the Revised Code.

**Sec. 3345.72.** (A) The office of budget and management shall work with the auditor of state, the chancellor of higher education, and two representatives of state universities and colleges appointed by the chancellor to develop rules under this division, and shall adopt the rules in accordance with section 111.15 of the Revised Code. One of the chancellor's appointments shall represent a four-year institution and one a two-year institution. The rules shall include all of the following:

(1) Criteria for determining when to declare a state university or college under a fiscal watch, which criteria shall include all of the following:

(a) A requirement for the submission of a quarterly report from each state university or college, within thirty days after the end of each calendar quarter, to the chancellor of higher education, the director of budget and management, the legislative service commission, and the chairpersons and ranking minority members of the finance committees of the house of representatives and the senate;

(b) A requirement that each state university and college shall prepare at the end of each fiscal year a financial statement consistent with audit requirements prescribed by the auditor of state, and shall submit the financial statement to the auditor of state within four months after the end of the fiscal year;

(c) A requirement that the auditor of state shall send written notice to the agencies and persons mentioned in division (A)(1)(a) of this section if a state university or college fails to submit its financial statement within the time required under division (A)(1)(b) of this section;

(d) A requirement that the auditor of state shall send written notice to the agencies and persons mentioned in division (A)(1)(a) of this section if an audit of a state university or college reveals any of the following:

(i) Substantive audit findings, such as an inability to make timely payments to vendors, delays in pension retirement contributions, or requests for advanced state funding;

(ii) A significant variance between budgeted and actual spending for a fiscal year;

(iii) A significant operating budget deficit for a fiscal year.

(2) Actions to be taken by the board of trustees of a state university or college while under a fiscal watch;

(3) Criteria for determining when to declare the termination of the fiscal watch of a state university or college;

(4) The fiscal information to be reported to the chancellor of higher education by each state university or college under a fiscal watch for purposes of making determinations under division (D) of this section and division (A) of section 3345.74 of the Revised Code, and the frequency and deadlines for reporting this information.

(B) The chancellor shall adopt a resolution declaring a state university or college to be in a state of fiscal watch if the chancellor determines that the criteria adopted under division (A)(1) of this section are satisfied with respect to that state university or college. For purposes of making this determination, the chancellor shall establish a financial tracking system and shall use the system to regularly assess each state university or college with respect to the criteria adopted under division (A)(1) of this section.

(C) While a state university or college is under a fiscal watch, the board of trustees of the university or college shall take the actions and report the fiscal information prescribed under divisions (A)(2) and (4) of this section.

(D) The chancellor shall adopt a resolution declaring the termination of the fiscal watch of a state university or college if the chancellor determines that the criteria adopted under division (A)(3) of this section are satisfied with respect to that state university or college.

(E) In making assessments and determinations under division (B) or (D) of this section, the

chancellor shall use financial reports required under section 3345.05 of the Revised Code or any other documents, records, or information available to the chancellor or the auditor of state related to the criteria adopted under division (A)(1) or (3) of this section. In making determinations under division (D) of this section, the chancellor shall also use the fiscal information reported under division (C) of this section.

(F) The chancellor of higher education shall certify each action taken under division (B) or (D) of this section to the governor, the director of budget and management, the speaker and minority leader of the house of representatives, the president and minority leader of the senate, the legislative service commission, and the chairpersons and ranking minority members of the finance committees of the house and senate.

(G) A determination by the chancellor of higher education under this section that a fiscal watch exists or does not exist, or that a fiscal watch is terminated or is not terminated, is final and conclusive and not appealable.

(H) If a state university or college fails to submit the quarterly report required under division (A)(1) of this section within thirty days after the end of a calendar quarter, the chancellor shall withhold payment of any instructional subsidies to the university or college until it submits the report. Upon submission of the report, the chancellor shall pay the withheld subsidies to the university or college.

**Sec. 3345.73.** The office of budget and management shall work with the auditor of state, the chancellor of higher education, and two representatives of state universities and colleges appointed by the chancellor to develop rules under this section, and shall adopt the rules in accordance with section 111.15 of the Revised Code. One of the chancellor's appointments shall represent a four-year institution and one a two-year institution. The rules shall establish the following:

(A) The financial indicators and the standards for using those indicators that the chancellor is to employ to determine whether a university or college under a fiscal watch is experiencing sufficient fiscal difficulties to warrant appointing a conservator under section 3345.74 of the Revised Code;

(B) The financial indicators and the standards for using those indicators that a governance authority established for a state university or college under section 3345.75 of the Revised Code is to employ to determine whether the university or college is experiencing sufficient fiscal stability to warrant terminating that governance authority in accordance with section 3345.76 of the Revised Code.

The indicators and standards adopted under this section shall be designed so as to take into account at least the revenues, expenditures, assets, liabilities, and fund balances of a state university or college, and shall be designed so as to indicate the financial performance and position of a state university or college.

**Sec. 3345.74.** (A) The chancellor of higher education at least annually shall apply the indicators and standards adopted under division (A) of section 3345.73 of the Revised Code to determine whether a state university or college under a fiscal watch is experiencing sufficient fiscal difficulties to warrant the appointment of a conservator under this section. Upon making a determination that appointment of a conservator is warranted, the chancellor shall request from the office of budget and management, which shall provide, certification that sufficient fiscal difficulties exist to warrant appointment of a conservator. The chancellor shall then certify this determination to

the governor.

Notwithstanding section 3333.021 of the Revised Code, that section does not apply to certification by the chancellor under this section or to the declaration of a fiscal watch under section 3345.72 of the Revised Code.

A determination by the chancellor under this division that sufficient fiscal difficulties exist or do not exist to warrant appointing a conservator is final and conclusive and not appealable.

(B) The governor may appoint a conservator for any state university or college under a fiscal watch, upon certification by the chancellor under division (A) of this section that the appointment is warranted. The governor shall consult with the speaker and minority leader of the house of representatives and the president and minority leader of the senate before making the appointment. From the time a conservator is appointed until the time the governor issues an order terminating the governance authority under division (B) of section 3345.76 of the Revised Code, the governor may remove any member of the board of trustees of the state university or college from office and not fill the vacancy.

(C) Upon appointment of a conservator under this section for a state university or college, all of the following shall occur effective immediately:

(1) All duties, responsibilities, and powers of the board of trustees of the university or college are suspended;

(2) The management and control of the state university or college is assumed by the conservator;

(3) Notwithstanding any section of the Revised Code, all duties, responsibilities, and powers assigned by law to the board of trustees are assigned to the conservator, and the conservator becomes the successor to, assumes the lawful obligations of, and otherwise constitutes the continuation of the board of trustees for purposes of all pending legal actions, contracts or other agreements, and obligations of the university or college;

(4) Wherever the board of trustees is referred to in any contract or legal document, the reference is deemed to refer to the conservator. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the assumption of the board's authority by the conservator under this section and any such validation, cure, right, privilege, remedy, obligation, or liability shall be administered by the conservator. No action or proceeding pending on the effective date of the assumption by the conservator of the board's authority is affected by that assumption and any such action or proceeding shall be prosecuted or defended in the name of the conservator.

(5) The conservator assumes custody of all equipment, records, files, effects, and all other property real or personal of the state university or college;

(6) All authority and duties of the president or chief executive officer, and the pay of the president or chief executive officer, are suspended.

(D) The conservator for a state university or college shall conduct a preliminary performance evaluation of the president or chief executive officer of the university or college and provide a copy of findings and any recommendations to the governance authority established for the university or college under section 3345.75 of the Revised Code.

(E) A conservator appointed under this section shall be immune, indemnified, and held harmless from civil liability, including any cause of action, legal, equitable, or otherwise, for any

action taken or duties performed by the conservator in good faith and in furtherance of the performance of the duties of the conservator under this section.

(F) The governor shall set the compensation for a conservator appointed for a state university or college. The expenses and compensation of the conservator and others employed by the conservator shall be paid out of the operating funds and revenues of that university or college.

**Sec. 3345.75.** (A) Not later than thirty days after the date of the appointment of a conservator for a state university or college under section 3345.74 of the Revised Code, the governor shall appoint, with the advice and consent of the senate, a governance authority for the university or college consisting of five members. The members shall serve at the pleasure of the governor and any vacancies shall be filled in the same manner as an original appointment.

The governor shall designate one of the members of the governance authority as the chairperson and shall call the first meeting of the authority. A majority of the members of a governance authority constitutes a quorum and the affirmative vote of a majority of the members shall be necessary for any action taken by an authority. Meetings of a governance authority shall be called in the manner and at the times prescribed by the authority, but the authority shall meet at least four times annually and at other times necessary for the best interest of the university or college. A governance authority may adopt procedures for the conduct of its business.

The members of a governance authority shall not receive compensation for their services, but shall be paid their reasonable and necessary expenses while engaged in the discharge of their official duties.

(B)(1) A governance authority established under this section shall appoint an executive director who shall serve at the pleasure of the authority and with the compensation and other terms and conditions established by it. With the approval of the chairperson of the authority, the executive director may appoint additional personnel as the director considers appropriate. The executive director shall oversee the day-to-day operation of the university or college under the direction and supervision of the authority.

(2) The governance authority shall conduct a final performance evaluation of the president or chief executive officer of the university or college. Following the evaluation, the governance authority may reinstate any duties, authority, or pay previously suspended under division (C)(6) of section 3345.74 of the Revised Code, or may terminate the president or chief executive officer in accordance with the terms of the person's employment contract.

(C) Upon appointment of all members of a governance authority under this section and upon the effective date for the commencement of the duties of the executive director appointed by that authority under this section, all authority, responsibilities, duties, and references assumed by or conferred upon the conservator under divisions (C)(2) to (6) of section 3345.74 of the Revised Code terminate and all of the following shall occur, effective immediately:

(1) The management and control of the state university or college is assumed by the governance authority;

(2) Notwithstanding any section of the Revised Code, all duties, responsibilities, and powers assigned by law to the board of trustees or to the conservator are assigned to the governance authority and the governance authority becomes the successor to, assumes the lawful obligations of, and otherwise constitutes the continuation of the board of trustees and the conservator for purposes of all

pending legal actions, contracts or other agreements, and obligations of the university or college;

(3) Wherever the board of trustees or conservator is referred to in any contract or legal document, the reference is deemed to refer to the governance authority. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the assumption of the authority of the board of trustees and the conservator by the governance authority under this section and any such validation, cure, right, privilege, remedy, obligation, or liability shall be administered by the governance authority. No action or proceeding pending on the effective date of the assumption by the governance authority of the authority of the board of trustees and the conservator is affected by that assumption and any such action or proceeding shall be prosecuted or defended in the name of the governance authority.

(4) The governance authority assumes custody of all equipment, records, files, effects, and all other property real or personal of the state university or college.

(D) A governance authority and executive director appointed under this section shall be immune, indemnified, and held harmless from civil liability, including any cause of action, legal, equitable, or otherwise, for any action taken or duties performed by the governance authority and executive director in good faith and in furtherance of the performance of the duties of the governance authority and executive director under this section.

(E) The expenses of a governance authority and the expenses and compensation of an executive director appointed for a state university or college under this section and others employed by the executive director under this section shall be paid out of the operating funds and revenues of that university or college.

(F) A governance authority appointed under this section shall prepare, in accordance with rules adopted by the office of budget and management, and submit to the chancellor of higher education, the governor, the speaker and minority leader of the house of representatives, and the president and minority leader of the senate a quarterly report setting forth all of the following:

- (1) The general condition of the university or college;
- (2) The amounts of receipts and disbursements and the items for which the disbursements were made;
- (3) The numbers of professors, officers, teachers, and other employees and the position and compensation of each and the numbers of students by courses of instruction;
- (4) An estimate of expenses for the ensuing quarter;
- (5) A statement of the general progress of the university or college with indication of any improvements and specification of any experiments with institutional reform and the costs and results of those experiments;
- (6) Any other matters the governance authority considers useful to report.

(G) The attorney general shall be the legal adviser to the conservator and the governance authority, and the attorney general may employ special counsel to aid the conservator or governance authority with respect to any legal matter on behalf of the institution. The conservator and the governance authority may as otherwise provided by law request the attorney general to bring or defend suits or proceedings in the name of the institution.

**Sec. 3345.76.** (A) A governance authority appointed for a state university or college under section 3345.75 of the Revised Code at least annually shall apply the indicators and standards



adopted under division (B) of section 3345.73 of the Revised Code to determine whether the university or college is experiencing sufficient fiscal stability to warrant terminating that governance authority in accordance with this section. Upon making a determination that termination of the governance authority is warranted, the governance authority shall certify this determination to the governor.

A determination by a governance authority under this division that sufficient fiscal stability exists or does not exist to warrant terminating that governance authority is final and conclusive and not appealable.

(B) The governor may issue an order, effective as provided under division (D) of this section, terminating the governance authority appointed under section 3345.75 of the Revised Code, upon the occurrence of either of the following:

(1) Certification by the governance authority for that state university or college the termination of that governance authority is warranted;

(2) A finding that in the governor's opinion termination of the governance authority is in the best interests of the state, that state university or college, and the students of that state university or college.

(C) Upon issuance of an order under division (B) of this section, the governor shall fill each vacancy on the board of trustees of the university or college for the unexpired portion of the member's term or, if the term for the member has already expired, for the unexpired portion of the succeeding term.

(D) Thirty days after the date on which the chancellor of higher education determines that all vacancies on the board of trustees have been filled, all authority, responsibilities, duties, and references assumed by or conferred upon the governance authority of that university or college under division (C) of section 3345.75 of the Revised Code terminate and all of the following shall occur:

(1) The management and control of the state university or college by the board of trustees shall be resumed;

(2) The board becomes the successor to, assumes the lawful obligations of, and otherwise constitutes the continuation of the conservator and the governance authority for purposes of all pending legal actions, contracts or other agreements, and obligations of the university or college;

(3) Wherever the conservator or the governance authority is referred to in any contract or legal document, the reference is deemed to refer to the board of trustees. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the resumption by the board of trustees of the authority of the conservator and the governance authority, and any such validation, cure, right, privilege, remedy, obligation, or liability shall be administered by the board of trustees. No action or proceeding pending on the effective date of the resumption by the board of trustees of the authority of the conservator and the governance authority is affected by that resumption, and any such action or proceeding shall be prosecuted or defended in the name of the board of trustees.

(4) The board of trustees resumes custody of all equipment, records, files, effects, and all other property real or personal of the state university or college;

(5) Employment of the executive director appointed for the university or college under section 3345.75 of the Revised Code is terminated;

(6) The duties, authority, and pay of the president or chief executive officer of the university

or college suspended under division (C)(6) of section 3345.74 and not reinstated under division (B) (2) of section 3345.75 of the Revised Code are reinstated to the person holding that position, unless otherwise provided for by the board of trustees.

**Sec. 3345.81.** Not later than June 30, 2014, the board of trustees of each institution of higher education, as defined by section 3345.12 of the Revised Code, shall adopt an institution-specific strategic completion plan designed to increase the number of degrees and certificates awarded to students. The plan shall be consistent with the mission and strategic priorities of the institution, include measurable student completion goals, and align with the state's workforce development priorities. Upon adoption by the board of trustees, each institution of higher education shall provide a copy of its plan to the chancellor of higher education.

The board of trustees of each institution of higher education shall update its plan at least once every two years and provide a copy of their updated plan to the chancellor upon adoption.

**Sec. 3345.86.** (A) As used in this section, an "eligible institution" means a community college established under Chapter 3354. of the Revised Code, a university branch established under Chapter 3355. of the Revised Code, a technical college established under Chapter 3357. of the Revised Code, or a state community college established under Chapter 3358. of the Revised Code.

(B) An individual who is at least twenty-two years of age and who is an eligible individual as defined in section 3317.23 of the Revised Code may enroll in an eligible institution for up to two consecutive school years for the purpose of completing the requirements to earn a high school diploma. An individual enrolled under this division may elect to satisfy these requirements by successfully completing a competency-based educational program, as defined in section 3317.02 of the Revised Code, that complies with the standards adopted by the department of education under section 3317.231 of the Revised Code.

The eligible institution in which the individual enrolls shall report that individual's enrollment on a full-time equivalency basis to the department.

(C)(1) For each eligible institution that enrolls individuals under division (B) of this section, the department annually shall certify the enrollment and attendance, on a full-time equivalency basis, of each individual reported by the institution under that division.

(2) For each individual enrolled in an eligible institution under division (B) of this section, the department annually shall pay the institution up to \$5,000, as determined by the department based on the extent of the individual's successful completion of the graduation requirements prescribed under sections 3313.603, 3313.61, 3313.611, and 3313.614 of the Revised Code.

(D) If an individual enrolled in an eligible institution under division (B) of this section completes the requirements to earn a high school diploma, the institution shall certify the completion of those requirements to the city, local, or exempted village school district in which the individual resides. Upon receiving certification under this division, the city, local, or exempted village school district in which the individual resides shall issue a high school diploma to the individual within sixty days of receipt of the certification.

(E) An eligible institution that enrolls individuals under division (B) of this section shall be subject to the program administration standards adopted by the department under section 3317.231 of the Revised Code, as applicable.

**Sec. 3354.01.** As used in sections 3354.01 to 3354.18 of the Revised Code:

(A) "Community college district" means a political subdivision of the state and a body corporate with all the powers of a corporation, comprised of the territory of one or more contiguous counties having together a total population of not less than seventy-five thousand preceding the establishment of such district, and organized for the purpose of establishing, owning, and operating a community college within the territory of such district.

(B) "Contiguous counties" means counties so located that each such county shares at least one boundary in common with at least one other such county in the group of counties referred to as being "contiguous."

(C) "Community college" means a public institution of education beyond the high school organized for the principal purpose of providing for the people of the community college district wherein such college is situated the instructional programs defined in this section as "arts and sciences" and "technical," or either, and may include the "adult-education" program as defined in this section. Except for applied bachelor's degree programs approved by the chancellor of higher education under section 3333.051 of the Revised Code, instructional programs shall not exceed two years in duration.

A university maintained and operated by a municipality located in a county having a total population equal to the requirement for a community college district as set forth in division (A) of section 3354.01 of the Revised Code and is found by the chancellor of higher education to offer instructional programs which are needed in the community and which are equivalent to those required of community colleges shall be, for the purposes of receiving state or federal financial aid only, considered a community college and shall receive the same state financial assistance granted to community colleges but only in respect to students enrolled in their first and second year of post high school education in the kinds of instructional programs offered by the municipal university.

(D) "Arts and sciences program" means both of the following:

(1) A curricular program of two years or less duration, provided within a community college, planned and intended to enable students to gain academic credit for courses generally comparable to courses offered in the first two years in accredited colleges and universities in the state, and designed either to enable students to transfer to such colleges and universities for the purpose of earning baccalaureate degrees or to enable students to terminate academic study after two years with a proportionate recognition of academic achievement.

(2) An applied bachelor's degree program approved and offered under section 3333.051 of the Revised Code.

(E) "Adult-education program" means the dissemination of post high school educational service and knowledge, by a community college, for the occupational, cultural, or general educational benefit of adult persons, such educational service and knowledge not being offered for the primary purpose of enabling such persons to obtain academic credit or other formal academic recognition.

(F) "Charter amendment" means a change in the official plan of a community college for the purpose of acquiring additional lands or structures, disposing of or transferring lands or structures, erection of structures, or creating or abolishing of one or more academic departments corresponding to generally recognized fields of academic study.

(G) "Technical program" means a post high school curricular program of two years or less

duration, provided within a community college, planned and intended to enable students to gain academic credit for courses designed to prepare such students to meet the occupational requirements of the community.

(H) "Operating costs" means all expenses for all purposes of the community college district except expenditures for permanent improvements having an estimated life of usefulness of five years or more as certified by the fiscal officer of the community college district.

(I) "Applied bachelor's degree" has the same meaning as in section 3333.051 of the Revised Code.

**Sec. 3365.02.** (A) There is hereby established the college credit plus program under which, beginning with the 2015-2016 school year, a secondary grade student who is a resident of this state may enroll at a college, on a full- or part-time basis, and complete nonsectarian, nonremedial courses for high school and college credit. The program shall govern arrangements in which a secondary grade student enrolls in a college and, upon successful completion of coursework taken under the program, receives transcribed credit from the college. The following are not governed by the college credit plus program:

(1) An agreement governing an early college high school program, provided the program meets the definition set forth in division (F)(2) of section 3313.6013 of the Revised Code and is approved by the superintendent of public instruction and the chancellor of higher education;

(2) An advanced placement course or international baccalaureate diploma course, as described in divisions (A)(2) and (3) of section 3313.6013 of the Revised Code;

(3) A career-technical education program that is approved by the department of education under section 3317.161 of the Revised Code and grants articulated credit to students participating in that program. However, any portion of an approved program that results in the conferral of transcribed credit upon the completion of the course shall be governed by the college credit plus program.

(B) Any student enrolled in a public or nonpublic secondary school in the student's ninth, tenth, eleventh, or twelfth grade; any student enrolled in a nonchartered nonpublic secondary school in the student's ninth, tenth, eleventh, or twelfth grade; and any student who has been excused from the compulsory attendance law for the purpose of home instruction under section 3321.04 of the Revised Code and is the equivalent of a ninth, tenth, eleventh, or twelfth grade student, may participate in the program, if the student meets the applicable eligibility criteria in section 3365.03 of the Revised Code. If a nonchartered nonpublic secondary school student chooses to participate in the program, that student shall be subject to the same requirements as a home-instructed student who chooses to participate in the program under this chapter.

(C) All public secondary schools and all public colleges shall participate in the program and are subject to the requirements of this chapter. Any nonpublic secondary school or private college that chooses to participate in the program shall also be subject to the requirements of this chapter.

(D) The chancellor, in accordance with Chapter 119. of the Revised Code and in consultation with the state superintendent, shall adopt rules governing the program.

**Sec. 3365.034.**

**Sec. 3365.07.** The department of education shall calculate and pay state funds to colleges for participants in the college credit plus program under division (B) of section 3365.06 of the Revised

Code pursuant to this section. For a nonpublic secondary school participant, a nonchartered nonpublic secondary school participant, or a home-instructed participant, the department shall pay state funds pursuant to this section only if that participant is awarded funding according to rules adopted by the chancellor of higher education, in consultation with the superintendent of public instruction, pursuant to section 3365.071 of the Revised Code. The program shall be the sole mechanism by which state funds are paid to colleges for students to earn transcribed credit for college courses while enrolled in both a secondary school and a college, with the exception of state funds paid to colleges according to an agreement described in division (A)(1) of section 3365.02 of the Revised Code.

(A) For each public or nonpublic secondary school participant enrolled in a public college:

(1) If no agreement has been entered into under division (A)(2) of this section, both of the following shall apply:

(a) The department shall pay to the college the applicable amount as follows:

(i) For a participant enrolled in a college course delivered on the college campus, at another location operated by the college, or online, the lesser of the default ceiling amount or the college's standard rate;

(ii) For a participant enrolled in a college course delivered at the participant's secondary school but taught by college faculty, the lesser of fifty per cent of the default ceiling amount or the college's standard rate;

(iii) For a participant enrolled in a college course delivered at the participant's secondary school and taught by a high school teacher who has met the credential requirements established for purposes of the program in rules adopted by the chancellor, the default floor amount.

(b) The participant's secondary school shall pay for textbooks, and the college shall waive payment of all other fees related to participation in the program.

(2) The governing entity of a participant's secondary school and the college may enter into an agreement to establish an alternative payment structure for tuition, textbooks, and fees. Under such an agreement, payments for each participant made by the department shall be not less than the default floor amount, unless approved by the chancellor, and not more than either the default ceiling amount or the college's standard rate, whichever is less. The chancellor may approve an agreement that includes a payment below the default floor amount, as long as the provisions of the agreement comply with all other requirements of this chapter to ensure program quality. If no agreement is entered into under division (A)(2) of this section, both of the following shall apply:

(a) The department shall pay to the college the applicable default amounts prescribed by division (A)(1)(a) of this section, depending upon the method of delivery and instruction.

(b) In accordance with division (A)(1)(b) of this section, the participant's secondary school shall pay for textbooks, and the college shall waive payment of all other fees related to participation in the program.

(3) No participant that is enrolled in a public college shall be charged for any tuition, textbooks, or other fees related to participation in the program.

(B) For each public secondary school participant enrolled in a private college:

(1) If no agreement has been entered into under division (B)(2) of this section, the department shall pay to the college the applicable amount calculated in the same manner as in division (A)(1)(a)

of this section.

(2) The governing entity of a participant's secondary school and the college may enter into an agreement to establish an alternative payment structure for tuition, textbooks, and fees. Under such an agreement, payments shall be not less than the default floor amount, unless approved by the chancellor, and not more than either the default ceiling amount or the college's standard rate, whichever is less.

If an agreement is entered into under division (B)(2) of this section, both of the following shall apply:

(a) The department shall make a payment to the college for each participant that is equal to the default floor amount, unless approved by the chancellor to pay an amount below the default floor amount. The chancellor may approve an agreement that includes a payment below the default floor amount, as long as the provisions of the agreement comply with all other requirements of this chapter to ensure program quality.

(b) Payment for costs for the participant that exceed the amount paid by the department pursuant to division (B)(2)(a) of this section shall be negotiated by the school and the college. The agreement may include a stipulation permitting the charging of a participant.

However, under no circumstances shall:

(i) Payments for a participant made by the department under division (B)(2) of this section exceed the lesser of the default ceiling amount or the college's standard rate;

(ii) The amount charged to a participant under division (B)(2) of this section exceed the difference between the maximum per participant charge amount and the default floor amount;

(iii) The sum of the payments made by the department for a participant and the amount charged to that participant under division (B)(2) of this section exceed the following amounts, as applicable:

(I) For a participant enrolled in a college course delivered on the college campus, at another location operated by the college, or online, the maximum per participant charge amount;

(II) For a participant enrolled in a college course delivered at the participant's secondary school but taught by college faculty, one hundred twenty-five dollars;

(III) For a participant enrolled in a college course delivered at the participant's secondary school and taught by a high school teacher who has met the credential requirements established for purposes of the program in rules adopted by the chancellor, one hundred dollars.

(iv) A participant that is identified as economically disadvantaged according to rules adopted by the department be charged under division (B)(2) of this section for any tuition, textbooks, or other fees related to participation in the program.

(C) For each nonpublic secondary school participant enrolled in a private or eligible out-of-state college, the department shall pay to the college the applicable amount calculated in the same manner as in division (A)(1)(a) of this section. Payment for costs for the participant that exceed the amount paid by the department shall be negotiated by the governing body of the nonpublic secondary school and the college.

However, under no circumstances shall:

(1) The payments for a participant made by the department under this division exceed the lesser of the default ceiling amount or the college's standard rate.

(2) Any nonpublic secondary school participant, who is enrolled in that secondary school with a scholarship awarded under either the educational choice scholarship pilot program, as prescribed by sections 3310.01 to 3310.17, or the pilot project scholarship program, as prescribed by sections 3313.974 to 3313.979 of the Revised Code, and who qualifies as a low-income student under either of those programs, be charged for any tuition, textbooks, or other fees related to participation in the college credit plus program.

(D) For each nonchartered nonpublic secondary school participant and each home-instructed participant enrolled in a public, private, or eligible out-of-state college, the department shall pay to the college the lesser of the default ceiling amount or the college's standard rate, if that participant is enrolled in a college course delivered on the college campus, at another location operated by the college, or online.

(E) Not later than thirty days after the end of each term, each college expecting to receive payment for the costs of a participant under this section shall notify the department of the number of enrolled credit hours for each participant.

(F) The department shall make the applicable payments under this section to each college, which provided proper notification to the department under division (E) of this section, for the number of enrolled credit hours for participants enrolled in the college under division (B) of section 3365.06 of the Revised Code. Except in cases involving incomplete participant information or a dispute of participant information, payments shall be made by the last day of January for participants who were enrolled during the fall term and by the last day of July for participants who were enrolled during the spring term. The department shall not make any payments to a college under this section if a participant withdrew from a course prior to the date on which a withdrawal from the course would have negatively affected the participant's transcribed grade, as prescribed by the college's established withdrawal policy.

(1) Payments made for public secondary school participants under this section shall be deducted from the school foundation payments made to the participant's school district or, if the participant is enrolled in a community school, a STEM school, or a college-preparatory boarding school, from the payments made to that school under section 3314.08, 3326.33, or 3328.34 of the Revised Code. If the participant is enrolled in a joint vocational school district, a portion of the amount shall be deducted from the payments to the joint vocational school district and a portion shall be deducted from the payments to the participant's city, local, or exempted village school district in accordance with the full-time equivalency of the student's enrollment in each district. Amounts deducted under division (F)(1) of this section shall be calculated in accordance with rules adopted by the chancellor, in consultation with the state superintendent, pursuant to division (B) of section 3365.071 of the Revised Code.

(2) Payments made for nonpublic secondary school participants, nonchartered nonpublic secondary school participants, and home-instructed participants under this section shall be deducted from moneys appropriated by the general assembly for such purpose. Payments shall be allocated and distributed in accordance with rules adopted by the chancellor, in consultation with the state superintendent, pursuant to division (A) of section 3365.071 of the Revised Code.

(G) Any public college that enrolls a student under division (B) of section 3365.06 of the Revised Code may include that student in the calculation used to determine its state share of

instruction funds appropriated to the department of higher education by the general assembly.

**Sec. 3365.14.**

**Sec. 3365.15.** The chancellor of higher education and the superintendent of public instruction jointly shall do all of the following:

(A) Adopt data reporting guidelines specifying the types of data that public and participating nonpublic secondary schools and public and participating private colleges, including eligible out-of-state colleges participating in the program, must annually collect, report, and track under division (G) of section 3365.04 and division (H) of section 3365.05 of the Revised Code. The types of data shall include all of the following:

(1) For each secondary school and college:

(a) The number of participants disaggregated by grade level, socioeconomic status, race, gender, and disability;

(b) The number of completed courses and credit hours, disaggregated by the college in which participants were enrolled;

(c) The number of courses in which participants enrolled, disaggregated by subject area and level of difficulty.

(2) For each secondary school, the number of students who were denied participation in the program under division (A)(1)(a) or (C) of section 3365.03 or section 3365.031 or 3365.032 of the Revised Code. Each participating nonpublic secondary school shall also include the number of students who were denied participation due to the student not being awarded funding by the department of education pursuant to section 3365.071 of the Revised Code.

(3) For each college:

(a) The number of students who applied to enroll in the college under the program but were not granted admission;

(b) The average number of completed courses per participant;

(c) The average grade point average for participants in college courses under the program.

The guidelines adopted under this division shall also include policies and procedures for the collection, reporting, and tracking of such data.

(B) Annually compile the data required under division (A) of this section. Not later than the thirty-first day of December of each year, the data from the previous school year shall be posted in a prominent location on both the chancellor of higher education's and the department of education's web sites.

(C) Until December 2023, submit an annual report on outcomes of the college credit plus program that are supported by empirical evidence to the governor, the president of the senate, the speaker of the house of representatives, and the chairpersons of the education committees of the senate and house of representatives. The report shall include all of the following, disaggregated by cohort:

(1) Number of degrees attained;

(2) Level and type of degrees attained;

(3) Number of students who receive a degree in two different subject areas;

(4) Time to completion of a degree, disaggregated by level and type of degree attained;

(5) Time to enrollment in a graduate or doctoral degree program;



(6) The number of students who participate in a study abroad course;

(7) How all of the measures described in division (C) of this section compare to both:

(a) The overall student population who did not participate in the college credit plus program;

(b) Any similar measures compiled under the former postsecondary enrollment options program, to the extent that such data is available.

The first report shall be submitted not later than December 31, 2018, and each subsequent report shall be submitted not later than the thirty-first day of December each year thereafter until December 2023.

(D) Establish a college credit plus advisory committee to assist in the development of performance metrics and the monitoring of the program's progress. At least one member of the advisory committee shall be a school guidance counselor.

The chancellor shall also, in consultation with the superintendent, create a standard packet of information for the college credit plus program directed toward students and parents that are interested in the program.

(E) The chancellor and the state superintendent also may submit a biennial report detailing the status of the college credit plus program, including an analysis of quality assurance measures related to the program, to the governor, the president of the senate, the speaker of the house of representatives, and the chairpersons of the education committees of the senate and house of representatives. If the chancellor and state superintendent choose to jointly submit the biennial report, both of the following shall apply:

(1) The report shall include only data available through the higher education information system administered by the chancellor.

(2) The first report shall be submitted not later than December 31, 2017, and each subsequent report shall be submitted not later than the thirty-first day of December every two years thereafter.

(F) For purposes of this section, "cohort" means a group of students who participated in the college credit plus program and who, upon graduation from high school, enroll in an Ohio institution of higher education during the same academic year.

**Sec. 3501.01.** As used in the sections of the Revised Code relating to elections and political communications:

(A) "General election" means the election held on the first Tuesday after the first Monday in each November.

(B) "Regular municipal election" means the election held on the first Tuesday after the first Monday in November in each odd-numbered year.

(C) "Regular state election" means the election held on the first Tuesday after the first Monday in November in each even-numbered year.

(D) "Special election" means any election other than those elections defined in other divisions of this section. A special election may be held only on the first Tuesday after the first Monday in May, August, or November, or on the day authorized by a particular municipal or county charter for the holding of a primary election, except that in any year in which a presidential primary election is held, no special election shall be held in May, except as authorized by a municipal or county charter, but may be held on the second Tuesday after the first Monday in March.

(E)(1) "Primary" or "primary election" means an election held for the purpose of nominating

persons as candidates of political parties for election to offices, and for the purpose of electing persons as members of the controlling committees of political parties and as delegates and alternates to the conventions of political parties. Primary elections shall be held on the first Tuesday after the first Monday in May of each year except in years in which a presidential primary election is held.

(2) "Presidential primary election" means a primary election as defined by division (E)(1) of this section at which an election is held for the purpose of choosing delegates and alternates to the national conventions of the major political parties pursuant to section 3513.12 of the Revised Code. Unless otherwise specified, presidential primary elections are included in references to primary elections. In years in which a presidential primary election is held, all primary elections shall be held on the second Tuesday after the first Monday in March except as otherwise authorized by a municipal or county charter.

(F) "Political party" means any group of voters meeting the requirements set forth in section 3517.01 of the Revised Code for the formation and existence of a political party.

(1) "Major political party" means any political party organized under the laws of this state whose candidate for governor or nominees for presidential electors received not less than twenty per cent of the total vote cast for such office at the most recent regular state election.

(2) "Minor political party" means any political party organized under the laws of this state that meets either of the following requirements:

(a) Except as otherwise provided in this division, the political party's candidate for governor or nominees for presidential electors received less than twenty per cent but not less than three per cent of the total vote cast for such office at the most recent regular state election. A political party that meets the requirements of this division remains a political party for a period of four years after meeting those requirements.

(b) The political party has filed with the secretary of state, subsequent to its failure to meet the requirements of division (F)(2)(a) of this section, a petition that meets the requirements of section 3517.01 of the Revised Code.

A newly formed political party shall be known as a minor political party until the time of the first election for governor or president which occurs not less than twelve months subsequent to the formation of such party, after which election the status of such party shall be determined by the vote for the office of governor or president.

(G) "Dominant party in a precinct" or "dominant political party in a precinct" means that political party whose candidate for election to the office of governor at the most recent regular state election at which a governor was elected received more votes than any other person received for election to that office in such precinct at such election.

(H) "Candidate" means any qualified person certified in accordance with the provisions of the Revised Code for placement on the official ballot of a primary, general, or special election to be held in this state, or any qualified person who claims to be a write-in candidate, or who knowingly assents to being represented as a write-in candidate by another at either a primary, general, or special election to be held in this state.

(I) "Independent candidate" means any candidate who claims not to be affiliated with a political party, and whose name has been certified on the office-type ballot at a general or special election through the filing of a statement of candidacy and nominating petition, as prescribed in

section 3513.257 of the Revised Code.

(J) "Nonpartisan candidate" means any candidate whose name is required, pursuant to section 3505.04 of the Revised Code, to be listed on the nonpartisan ballot, including all candidates for judicial office, for member of any board of education, for municipal or township offices in which primary elections are not held for nominating candidates by political parties, and for offices of municipal corporations having charters that provide for separate ballots for elections for these offices.

(K) "Party candidate" means any candidate who claims to be a member of a political party and who has been certified to appear on the office-type ballot at a general or special election as the nominee of a political party because the candidate has won the primary election of the candidate's party for the public office the candidate seeks, has been nominated under section 3517.012, or is selected by party committee in accordance with section 3513.31 of the Revised Code.

(L) "Officer of a political party" includes, but is not limited to, any member, elected or appointed, of a controlling committee, whether representing the territory of the state, a district therein, a county, township, a city, a ward, a precinct, or other territory, of a major or minor political party.

(M) "Question or issue" means any question or issue certified in accordance with the Revised Code for placement on an official ballot at a general or special election to be held in this state.

(N) "Elector" or "qualified elector" means a person having the qualifications provided by law to be entitled to vote.

(O) "Voter" means an elector who votes at an election.

(P) "Voting residence" means that place of residence of an elector which shall determine the precinct in which the elector may vote.

(Q) "Precinct" means a district within a county established by the board of elections of such county within which all qualified electors having a voting residence therein may vote at the same polling place.

(R) "Polling place" means that place provided for each precinct at which the electors having a voting residence in such precinct may vote.

(S) "Board" or "board of elections" means the board of elections appointed in a county pursuant to section 3501.06 of the Revised Code.

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

(U) "Election officer" or "election official" means any of the following:

- (1) Secretary of state;
  - (2) Employees of the secretary of state serving the division of elections in the capacity of attorney, administrative officer, administrative assistant, elections administrator, office manager, or clerical supervisor;
  - (3) Director of a board of elections;
  - (4) Deputy director of a board of elections;
  - (5) Member of a board of elections;
  - (6) Employees of a board of elections;
  - (7) Precinct election officials;
  - (8) Employees appointed by the boards of elections on a temporary or part-time basis.
- (V) "Acknowledgment notice" means a notice sent by a board of elections, on a form

prescribed by the secretary of state, informing a voter registration applicant or an applicant who wishes to change the applicant's residence or name of the status of the application; the information necessary to complete or update the application, if any; and if the application is complete, the precinct in which the applicant is to vote.

(W) "Confirmation notice" means a notice sent by a board of elections, on a form prescribed by the secretary of state, to a registered elector to confirm the registered elector's current address.

(X) "Designated agency" means an office or agency in the state that provides public assistance or that provides state-funded programs primarily engaged in providing services to persons with disabilities and that is required by the National Voter Registration Act of 1993 to implement a program designed and administered by the secretary of state for registering voters, or any other public or government office or agency that implements a program designed and administered by the secretary of state for registering voters, including the department of job and family services, the program administered under section 3701.132 of the Revised Code by the department of health, the department of mental health and addiction services, the department of developmental disabilities, the opportunities for Ohioans with disabilities agency, and any other agency the secretary of state designates. "Designated agency" does not include public high schools and vocational schools, public libraries, or the office of a county treasurer.

(Y) "National Voter Registration Act of 1993" means the "National Voter Registration Act of 1993," 107 Stat. 77, 42 U.S.C.A. 1973gg.

(Z) "Voting Rights Act of 1965" means the "Voting Rights Act of 1965," 79 Stat. 437, 42 U.S.C.A. 1973, as amended.

(AA) "Photo identification" means a document that meets each of the following requirements:

(1) It shows the name of the individual to whom it was issued, which shall conform to the name in the poll list or signature pollbook.

(2) It shows the current address of the individual to whom it was issued, which shall conform to the address in the poll list or signature pollbook, except for a driver's license or a state identification card issued under section 4507.50 of the Revised Code, which may show either the current or former address of the individual to whom it was issued, regardless of whether that address conforms to the address in the poll list or signature pollbook.

(3) It shows a photograph of the individual to whom it was issued.

(4) It includes an expiration date that has not passed.

(5) It was issued by the government of the United States or this state.

**Sec. 3501.12.** (A) The annual compensation of members of the board of elections shall be determined on the basis of the population of the county according to the next preceding federal census, and shall be paid monthly out of the appropriations made to the board and upon vouchers or payrolls certified by the chairperson, or a member of the board designated by it, and countersigned by the director or in the director's absence by the deputy director. Upon presentation of any such voucher or payroll, the county auditor shall issue a warrant upon the county treasurer for the amount thereof as in the case of vouchers or payrolls for county offices and the treasurer shall pay such warrant.

(B) In calendar year 2015, the amount of annual compensation of each member of the board

of elections shall be as follows:

(1) Ninety-two dollars and eighty-nine cents for each full one thousand of the first one hundred thousand population;

(2) Forty-four dollars and twenty-six cents for each full one thousand of the second one hundred thousand population;

(3) Twenty-four dollars and four cents for each full one thousand of the third one hundred thousand population;

(4) Seven dollars and thirty-seven cents for each full one thousand above three hundred thousand population.

(C) In calendar year 2015, the compensation of a member of the board shall not be less than three thousand six hundred eighty-seven dollars and shall not exceed twenty-one thousand eight hundred fifty-five dollars annually.

(D) In calendar year 2016, the annual compensation of each member of the board shall be computed after increasing the dollar amounts specified in divisions (B) and (C) of this section by five per cent. Such compensation shall not be less than four thousand eight hundred thirty dollars.

(E) In calendar year 2017, the annual compensation of each member of the board shall be computed after increasing the dollar amounts specified in division (D) of this section by five per cent. Such compensation shall not be less than six thousand dollars.

(F) In calendar year 2018 and thereafter, the annual compensation of each member of the board shall be the dollar amounts computed under division (E) of this section.

For the purposes of this section, members of boards of elections shall be deemed to be appointed and not elected, and therefore not subject to Section 20 of Article II of the Ohio Constitution.

**Sec. 3501.17.** (A) The expenses of the board of elections shall be paid from the county treasury, in pursuance of appropriations by the board of county commissioners, in the same manner as other county expenses are paid. If the board of county commissioners fails to appropriate an amount sufficient to provide for the necessary and proper expenses of the board of elections pertaining to the conduct of elections, the board of elections may apply to the court of common pleas within the county, which shall fix the amount necessary to be appropriated and the amount shall be appropriated. Payments shall be made upon vouchers of the board of elections certified to by its chairperson or acting chairperson and the director or deputy director, upon warrants of the county auditor.

The board of elections shall not incur any obligation involving the expenditure of money unless there are moneys sufficient in the funds appropriated therefor to meet the obligation. If the board of elections requests a transfer of funds from one of its appropriation items to another, the board of county commissioners shall adopt a resolution providing for the transfer except as otherwise provided in section 5705.40 of the Revised Code. The expenses of the board of elections shall be apportioned among the county and the various subdivisions as provided in this section, and the amount chargeable to each subdivision shall be paid as provided in division (J) of this section or withheld by the county auditor from the moneys payable thereto at the time of the next tax settlement. At the time of submitting budget estimates in each year, the board of elections shall submit to the taxing authority of each subdivision, upon the request of the subdivision, an estimate of

the amount to be paid or withheld from the subdivision during the current or next fiscal year.

A board of township trustees may, by resolution, request that the county auditor withhold expenses charged to the township from a specified township fund that is to be credited with revenue at a tax settlement. The resolution shall specify the tax levy ballot issue, the date of the election on the levy issue, and the township fund from which the expenses the board of elections incurs related to that ballot issue shall be withheld.

(B) Except as otherwise provided in division (F) of this section, the compensation of the members of the board of elections and of the director, deputy director, and regular employees in the board's offices, other than compensation for overtime worked; the expenditures for the rental, furnishing, and equipping of the office of the board and for the necessary office supplies for the use of the board; the expenditures for the acquisition, repair, care, and custody of the polling places, booths, guardrails, and other equipment for polling places; the cost of tally sheets, maps, flags, ballot boxes, and all other permanent records and equipment; the cost of all elections held in and for the state and county; and all other expenses of the board which are not chargeable to a political subdivision in accordance with this section shall be paid in the same manner as other county expenses are paid.

(C) The compensation of precinct election officials and intermittent employees in the board's offices; the cost of renting, moving, heating, and lighting polling places and of placing and removing ballot boxes and other fixtures and equipment thereof, including voting machines, marking devices, and automatic tabulating equipment; the cost of printing and delivering ballots, cards of instructions, registration lists required under section 3503.23 of the Revised Code, and other election supplies, including the supplies required to comply with division (H) of section 3506.01 of the Revised Code; the cost of contractors engaged by the board to prepare, program, test, and operate voting machines, marking devices, and automatic tabulating equipment; and all other expenses of conducting primaries and elections in the odd-numbered years shall be charged to the subdivisions in and for which such primaries or elections are held. The charge for each primary or general election in odd-numbered years for each subdivision shall be determined in the following manner: first, the total cost of all chargeable items used in conducting such elections shall be ascertained; second, the total charge shall be divided by the number of precincts participating in such election, in order to fix the cost per precinct; third, the cost per precinct shall be prorated by the board of elections to the subdivisions conducting elections for the nomination or election of offices in such precinct; fourth, the total cost for each subdivision shall be determined by adding the charges prorated to it in each precinct within the subdivision.

(D) The entire cost of special elections held on a day other than the day of a primary or general election, both in odd-numbered or in even-numbered years, shall be charged to the subdivision. Where a special election is held on the same day as a primary or general election in an even-numbered year, the subdivision submitting the special election shall be charged only for the cost of ballots and advertising. Where a special election is held on the same day as a primary or general election in an odd-numbered year, the subdivision submitting the special election shall be charged for the cost of ballots and advertising for such special election, in addition to the charges prorated to such subdivision for the election or nomination of candidates in each precinct within the subdivision, as set forth in the preceding paragraph.

(E) Where a special election is held on the day specified by division (E) of section 3501.01 of the Revised Code for the holding of a primary election, for the purpose of submitting to the voters of the state constitutional amendments proposed by the general assembly, and a subdivision conducts a special election on the same day, the entire cost of the special election shall be divided proportionally between the state and the subdivision based upon a ratio determined by the number of issues placed on the ballot by each, except as otherwise provided in division (G) of this section. Such proportional division of cost shall be made only to the extent funds are available for such purpose from amounts appropriated by the general assembly to the secretary of state. If a primary election is also being conducted in the subdivision, the costs shall be apportioned as otherwise provided in this section.

(F) When a precinct is open during a general, primary, or special election solely for the purpose of submitting to the voters a statewide ballot issue, the state shall bear the entire cost of the election in that precinct and shall reimburse the county for all expenses incurred in opening the precinct.

(G)(1) The state shall bear the entire cost of advertising in newspapers statewide ballot issues, explanations of those issues, and arguments for or against those issues, as required by Section 1g of Article II and Section 1 of Article XVI, Ohio Constitution, and any other section of law. Appropriations made to the controlling board shall be used to reimburse the secretary of state for all expenses the secretary of state incurs for such advertising under division (G) of section 3505.062 of the Revised Code.

(2) There is hereby created in the state treasury the statewide ballot advertising fund. The fund shall receive transfers approved by the controlling board, and shall be used by the secretary of state to pay the costs of advertising state ballot issues as required under division (G)(1) of this section. Any such transfers may be requested from and approved by the controlling board prior to placing the advertising, in order to facilitate timely provision of the required advertising.

(H) The cost of renting, heating, and lighting registration places; the cost of the necessary books, forms, and supplies for the conduct of registration; and the cost of printing and posting precinct registration lists shall be charged to the subdivision in which such registration is held.

(I)(1)(a) At the request of a majority of the members of the board of elections, the board of county commissioners may, by resolution, establish an elections revenue fund. Except as otherwise provided in this division and in division (I)(2) of this section, the purpose of the fund shall be to accumulate revenue withheld by or paid to the county under this section for the payment of any expense related to the duties of the board of elections specified in section 3501.11 of the Revised Code, upon approval of a majority of the members of the board of elections. The fund shall not accumulate any revenue withheld by or paid to the county under this section for the compensation of the members of the board of elections or of the director, deputy director, or other regular employees in the board's offices, other than compensation for overtime worked.

(b) Notwithstanding sections 5705.14, 5705.15, and 5705.16 of the Revised Code, the board of county commissioners may, by resolution, transfer money to the elections revenue fund from any other fund of the political subdivision from which such payments lawfully may be made. Following an affirmative vote of a majority of the members of the board of elections, the board of county commissioners may, by resolution, rescind an elections revenue fund established under this division. If an elections revenue fund is rescinded, money that has accumulated in the fund shall be transferred

to the county general fund.

(2)(a) The board of county commissioners of a county that receives a payment from a political subdivision under division (J) of this section shall, by resolution, establish a special elections fund. The purpose of the fund shall be to accumulate revenue paid to the county by political subdivisions under division (J) of this section for the cost of preparing for and conducting special elections.

(b) If both of the following apply, the board of county commissioners may, by resolution, rescind the special elections fund and transfer any remaining money in the fund to the county general fund or to the elections revenue fund:

(i) All notifications and payments required under division (J)(3) of this section have been made.

(ii) The county has not received any payments from political subdivisions under division (J) (2) of this section for a future special election.

(J)(1) Not less than fifteen business days before the deadline for submitting a question or issue for placement on the ballot at a special election, the board of elections shall prepare and file with the board of county commissioners and the office of the secretary of state the estimated cost, based on the factors enumerated in this section, for preparing for and conducting an election on one question or issue, one nomination for office, or one election to office in each precinct in the county at that special election and shall divide that cost by the number of registered voters in the county.

(2) The board of elections shall provide to a political subdivision seeking to submit a question or issue, a nomination for office, or an election to office for placement on the ballot at a special election with the estimated cost for preparing for and conducting that election, which shall be calculated either by multiplying the number of registered voters in the political subdivision with the cost calculated under division (J)(1) of this section or by multiplying the cost per precinct with the number of precincts in the political subdivision. A political subdivision submitting a question or issue, a nomination for office, or an election to office for placement on the ballot at that special election shall pay to the county special elections fund sixty-five per cent of the estimated cost of the election not less than ten business days after the deadline for submitting a question or issue for placement on the ballot for that special election.

(3) Not later than sixty days after the date of a special election, the board of elections shall provide to each political subdivision the true and accurate cost for the question or issue, nomination for office, or election to office that the subdivision submitted to the voters on the special election ballots. If the board of elections determines that a subdivision paid less for the cost of preparing and conducting a special election under division (J)(2) of this section than the actual cost calculated under this division, the subdivision shall remit to the county special elections fund the difference between the payment made under division (J)(2) of this section and the final cost calculated under this division within thirty days after being notified of the final cost. If the board of elections determines that a subdivision paid more for the cost of preparing and conducting a special election under division (J)(2) of this section than the actual cost calculated under this division, the board of elections promptly shall notify the board of county commissioners of that difference. The board of county commissioners shall remit from the county special elections fund to the political subdivision the difference between the payment made under division (J)(2) of this section and the final cost



calculated under this division within thirty days after receiving that notification.

(K) As used in this section:

(1) "Political subdivision" and "subdivision" mean any board of county commissioners, board of township trustees, legislative authority of a municipal corporation, board of education, or any other board, commission, district, or authority that is empowered to levy taxes or permitted to receive the proceeds of a tax levy, regardless of whether the entity receives tax settlement moneys as described in division (A) of this section;

(2) "Statewide ballot issue" means any ballot issue, whether proposed by the general assembly or by initiative or referendum, that is submitted to the voters throughout the state.

**Sec. 3599.03.** (A)(1) Except to carry on activities specified in sections 3517.082, 3517.101, and 3517.1011, division (A)(2) of section 3517.1012, division (B) of section 3517.1013, division (C)(1) of section 3517.1014, and section 3599.031 of the Revised Code and except as provided in divisions (D), (E), and (F) of this section, no corporation, no nonprofit corporation, and no labor organization, directly or indirectly, shall pay or use, or offer, advise, consent, or agree to pay or use, the corporation's money or property, or the labor organization's money, including dues, initiation fees, or other assessments paid by members, or property, for or in aid of or opposition to a political party, a candidate for election or nomination to public office, a political action committee including a political action committee of the corporation or labor organization, a legislative campaign fund, or any organization that supports or opposes any such candidate, or for any partisan political purpose, shall violate any law requiring the filing of an affidavit or statement respecting such use of those funds, or shall pay or use the corporation's or labor organization's money for the expenses of a social fund-raising event for its political action committee if an employee's or labor organization member's right to attend such an event is predicated on the employee's or member's contribution to the corporation's or labor organization's political action committee.

(2) Whoever violates division (A)(1) of this section shall be fined not less than five hundred nor more than five thousand dollars.

(B)(1) No officer, stockholder, attorney, or agent of a corporation or nonprofit corporation, no member, including an officer, attorney, or agent, of a labor organization, and no candidate, political party official, or other individual shall knowingly aid, advise, solicit, or receive money or other property in violation of division (A)(1) of this section.

(2) Whoever violates division (B)(1) of this section shall be fined not more than one thousand dollars, or imprisoned not more than one year, or both.

(C) A corporation, a nonprofit corporation, or a labor organization may use its funds or property for or in aid of or opposition to a proposed or certified ballot issue. Such use of funds or property shall be reported on a form prescribed by the secretary of state. Reports of contributions in connection with statewide ballot issues shall be filed with the secretary of state. Reports of contributions in connection with local issues shall be filed with the board of elections of the most populous county of the district in which the issue is submitted or to be submitted to the electors. Reports made pursuant to this division shall be filed by the times specified in divisions (A)(1) and (2) of section 3517.10 of the Revised Code.

(D) A nonprofit corporation that is a membership association and that is exempt from taxation under subsection 501(c)(6) of the Internal Revenue Code may transfer contributions received as part

of a regular dues payment from member partnerships and other unincorporated businesses as defined in division (I)(6) of section 3517.10 of the Revised Code to its political action committee. Contributions received under this division shall be itemized and allocated to individuals subject to contribution limits.

(E)(1) Any gift made pursuant to section 3517.101 of the Revised Code does not constitute a violation of this section or of any other section of the Revised Code.

(2) Any gift made pursuant to division (A)(2) of section 3517.1012 of the Revised Code does not constitute a violation of this section.

(3) Any gift made pursuant to division (B) of section 3517.1013 of the Revised Code does not constitute a violation of this section.

(4) Any donation made pursuant to division (C)(1) of section 3517.1014 of the Revised Code does not constitute a violation of this section.

(F) Any compensation or fees paid by a financial institution to a state political party for services rendered pursuant to division (B) of section 3517.19 of the Revised Code do not constitute a violation of this section or of any other section of the Revised Code.

(G)(1) The use by a nonprofit corporation of its money or property for communicating information for a purpose specified in division (A) of this section is not a violation of that division if the stockholders, members, donors, trustees, or officers of the nonprofit corporation are the predominant recipients of the communication.

(2) The placement of a campaign sign on the property of a corporation, nonprofit corporation, or labor organization is not a use of property in violation of division (A) of this section by that corporation, nonprofit corporation, or labor organization.

(3) The use by a corporation or labor organization of its money or property for communicating information for a purpose specified in division (A) of this section is not a violation of that division if it is not a communication made by mass broadcast such as radio or television or made by advertising in a newspaper of general circulation but is a communication sent exclusively to members, employees, officers, or trustees of that labor organization or shareholders, employees, officers, or directors of that corporation or to members of the immediate families of any such individuals or if the communication intended to be so sent exclusively is unintentionally sent as well to a de minimis number of other individuals.

(H) In addition to the laws listed in division (A) of section 4117.10 of the Revised Code that prevail over conflicting agreements between employee organizations and public employers, this section prevails over any conflicting provisions of agreements between labor organizations and public employers that are entered into on or after March 31, 2005, pursuant to Chapter 4117. of the Revised Code.

(I) As used in this section, "labor organization" has the same meaning as in section 3517.01 of the Revised Code.

**Sec. 3701.023.** (A) The department of health shall review applications for eligibility for the program for medically handicapped children that are submitted to the department by city and general health districts and physician providers approved in accordance with division (C) of this section. The department shall determine whether the applicants meet the medical and financial eligibility requirements established by the director of health pursuant to division (A)(1) of section 3701.021 of

the Revised Code, and by the department in the manual of operational procedures and guidelines for the program for medically handicapped children developed pursuant to division (B) of that section. Referrals of potentially eligible children for the program may be submitted to the department on behalf of the child by parents, guardians, public health nurses, or any other interested person. The department of health may designate other agencies to refer applicants to the department of health.

(B) In accordance with the procedures established in rules adopted under division (A)(4) of section 3701.021 of the Revised Code, the department of health shall authorize a provider or providers to provide to any Ohio resident under twenty-one years of age, without charge to the resident or the resident's family and without restriction as to the economic status of the resident or the resident's family, diagnostic services necessary to determine whether the resident has a medically handicapping or potentially medically handicapping condition.

(C) The department of health shall review the applications of health professionals, hospitals, medical equipment suppliers, and other individuals, groups, or agencies that apply to become providers. The department shall enter into a written agreement with each applicant who is determined, pursuant to the requirements set forth in rules adopted under division (A)(2) of section 3701.021 of the Revised Code, to be eligible to be a provider in accordance with the provider agreement required by the medicaid program. No provider shall charge a medically handicapped child or the child's parent or guardian for services authorized by the department under division (B) or (D) of this section.

The department, in accordance with rules adopted under division (A)(3) of section 3701.021 of the Revised Code, may disqualify any provider from further participation in the program for violating any requirement set forth in rules adopted under division (A)(2) of that section. The disqualification shall not take effect until a written notice, specifying the requirement violated and describing the nature of the violation, has been delivered to the provider and the department has afforded the provider an opportunity to appeal the disqualification under division (H) of this section.

(D) The department of health shall evaluate applications from city and general health districts and approved physician providers for authorization to provide treatment services, service coordination, and related goods to children determined to be eligible for the program for medically handicapped children pursuant to division (A) of this section. The department shall authorize necessary treatment services, service coordination, and related goods for each eligible child in accordance with an individual plan of treatment for the child. As an alternative, the department may authorize payment of health insurance premiums on behalf of eligible children when the department determines, in accordance with criteria set forth in rules adopted under division (A)(9) of section 3701.021 of the Revised Code, that payment of the premiums is cost-effective.

(E) The department of health shall pay, from appropriations to the department, any necessary expenses, including but not limited to, expenses for diagnosis, treatment, service coordination, supportive services, transportation, and accessories and their upkeep, provided to medically handicapped children, provided that the provision of the goods or services is authorized by the department under division (B) or (D) of this section. Money appropriated to the department of health may also be expended for reasonable administrative costs incurred by the program. The department of health also may purchase liability insurance covering the provision of services under the program for medically handicapped children by physicians and other health care professionals.

Payments made to providers by the department of health pursuant to this division for inpatient hospital care, outpatient care, and all other medical assistance furnished to eligible recipients shall be made in accordance with rules adopted by the director of health pursuant to division (A) of section 3701.021 of the Revised Code.

The departments of health and medicaid shall jointly implement procedures to ensure that duplicate payments are not made under the program for medically handicapped children and the medicaid program and to identify and recover duplicate payments.

(F) At the time of applying for participation in the program for medically handicapped children, a medically handicapped child or the child's parent or guardian shall disclose the identity of any third party against whom the child or the child's parent or guardian has or may have a right of recovery for goods and services provided under division (B) or (D) of this section. The department of health shall require a medically handicapped child who receives services from the program or the child's parent or guardian to apply for all third-party benefits for which the child may be eligible and require the child, parent, or guardian to apply all third-party benefits received to the amount determined under division (E) of this section as the amount payable for goods and services authorized under division (B) or (D) of this section. The department is the payer of last resort and shall pay for authorized goods or services, up to the amount determined under division (E) of this section for the authorized goods or services, only to the extent that payment for the authorized goods or services is not made through third-party benefits. When a third party fails to act on an application or claim for benefits by a medically handicapped child or the child's parent or guardian, the department shall pay for the goods or services only after ninety days have elapsed since the date the child, parents, or guardians made an application or claim for all third-party benefits. Third-party benefits received shall be applied to the amount determined under division (E) of this section. Third-party payments for goods and services not authorized under division (B) or (D) of this section shall not be applied to payment amounts determined under division (E) of this section. Payment made by the department shall be considered payment in full of the amount determined under division (E) of this section. Medicaid payments for persons eligible for the medicaid program shall be considered payment in full of the amount determined under division (E) of this section.

(G) The department of health shall administer a program to provide services to Ohio residents who are twenty-one or more years of age who have cystic fibrosis and who meet the eligibility requirements established in rules adopted by the director of health pursuant to division (A)(7) of section 3701.021 of the Revised Code, subject to all provisions of this section, but not subject to section 3701.024 of the Revised Code.

(H) The department of health shall provide for appeals, in accordance with rules adopted under section 3701.021 of the Revised Code, of denials of applications for the program for medically handicapped children under division (A) or (D) of this section, disqualification of providers, or amounts paid under division (E) of this section. Appeals under this division are not subject to Chapter 119. of the Revised Code.

The department may designate ombudspersons to assist medically handicapped children or their parents or guardians, upon the request of the children, parents, or guardians, in filing appeals under this division and to serve as children's, parents', or guardians' advocates in matters pertaining to the administration of the program for medically handicapped children and eligibility for program

services. The ombudspersons shall receive no compensation but shall be reimbursed by the department, in accordance with rules of the office of budget and management, for their actual and necessary travel expenses incurred in the performance of their duties.

(I) The department of health, and city and general health districts providing service coordination pursuant to division (A)(2) of section 3701.024 of the Revised Code, shall provide service coordination in accordance with the standards set forth in the rules adopted under section 3701.021 of the Revised Code, without charge, and without restriction as to economic status.

(J)(1) The department of health may establish a manufacturer discount program under which a manufacturer of a drug or nutritional formula is permitted to enter into an agreement with the department to provide a discount on the price of the drug or nutritional formula distributed to medically handicapped children participating in the program for medically handicapped children. The program shall be administered in accordance with rules adopted under section 3701.021 of the Revised Code.

(2) If a manufacturer enters into an agreement with the department as described in division (J)(1) of this section, the manufacturer and the department may negotiate the amount and terms of the discount.

(3) In lieu of establishing a discount program as described in division (J)(1) of this section, the department and a manufacturer of a drug or nutritional formula may discuss a donation of drugs, nutritional formulas, or money by the manufacturer to the department.

(K) As used in this division "209(b) option" has the same meaning as in section 5166.01 of the Revised Code.

The program for medically handicapped children and the program the department of health administers pursuant to division (G) of this section shall continue to assist individuals who have cystic fibrosis and are enrolled in those programs in qualifying for medicaid under the spenddown process in the same manner it assists such individuals on ~~the effective date of this amendment~~ September 29, 2015, regardless of whether the department of medicaid continues to implement the 209(b) option.

**Sec. 3701.045.** (A) The department of health, in consultation with the children's trust fund board established under section 3109.15 of the Revised Code and any bodies acting as child fatality review boards on October 5, 2000, shall adopt rules in accordance with Chapter 119. of the Revised Code that establish a procedure for county or regional child fatality review boards to follow in conducting a review of the death of a child. The rules shall do all of the following:

(1) Establish the format for the annual reports required by section 307.626 of the Revised Code;

(2) Establish guidelines for a county or regional child fatality review board to follow in compiling statistics for annual reports so that the reports do not contain any information that would permit any person's identity to be ascertained from a report;

(3) Establish guidelines for a county or regional child fatality review board to follow in creating and maintaining the comprehensive database of child deaths required by section 307.623 of the Revised Code, including provisions establishing uniform record-keeping procedures;

(4) Establish guidelines for reporting child fatality review data to the department of health or a national child death review database, either of which must maintain the confidentiality of

information that would permit a person's identity to be ascertained;

(5) Establish guidelines, materials, and training to help educate members of county or regional child fatality review boards about the purpose of the review process and the confidentiality of the information described in section 307.629 of the Revised Code and to make them aware that such information is not a public record under section 149.43 of the Revised Code.

(B) On or before the thirtieth day of September of each year, the department of health and the children's trust fund board jointly shall prepare and publish a report organizing and setting forth the data from the department of health child death review database or the national child death review database, data in all the reports provided by county or regional child fatality review boards in their annual reports for the previous calendar year, and recommendations for any changes to law and policy that might prevent future deaths. The department and the children's trust fund board jointly shall provide a copy of the report to the governor, the speaker of the house of representatives, the president of the senate, the minority leaders of the house of representatives and the senate, each county or regional child fatality review board, and each county or regional family and children first council.

**Sec. 3701.139.**

**Sec. 3701.142.**

**Sec. 3701.344.** (A) As used in this section and sections 3701.345 and 3701.347 of the Revised Code, "private water system" means any water system for the provision of water for human consumption, if the system has fewer than fifteen service connections and does not regularly serve an average of at least twenty-five individuals daily at least sixty days out of the year. "Private water system" includes any well, spring, cistern, pond, hauled water, or recycled water and any equipment for the collection, transportation, filtration, disinfection, treatment, or storage of such water extending from and including the source of the water to the point of discharge from any pressure tank or other storage vessel; to the point of discharge from the water pump where no pressure tank or other storage vessel is present; or, in the case of multiple service connections serving more than one dwelling, to the point of discharge from each service connection. "Private water system" does not include the water service line extending from the point of discharge to a structure.

(B) Notwithstanding section 3701.347 of the Revised Code and subject to division (C) of this section, rules adopted by the director of health regarding private water systems shall provide for the following:

(1) Except as otherwise provided in this division, boards of health of city or general health districts shall be given the exclusive power to establish fees in accordance with section 3709.09 of the Revised Code for administering and enforcing the rules. The fees shall establish a different rate for administering and enforcing the rules relative to private water systems serving single-family dwelling houses and nonsingle-family dwelling houses. Except for an amount established by the director, pursuant to division (B)(5) of this section, for each new private water system installation, no portion of any fee for administering and enforcing the rules shall be returned to the department of health. If the director of health determines that a board of health of a city or general health district is unable to administer and enforce a private water system program in the district, the director shall administer and enforce such a program in the district and establish fees for such administration and enforcement.

(2) Boards of health of city or general health districts shall be given the exclusive power to determine the number of inspections necessary for determining the safe drinking characteristics of a private water system.

(3) Private water systems contractors, as a condition of doing business in this state, shall annually register with, and comply with surety bonding requirements of, the department of health. No such contractor shall be permitted to register if the contractor fails to comply with all applicable rules adopted by the director and the board of health of the city or general health district. The annual registration fee for private water systems contractors shall be sixty-five dollars. The director, by rule adopted in accordance with Chapter 119. of the Revised Code, may increase the annual registration fee.

(4) Subject to rules adopted by the director, boards of health of city or general health districts shall have the option of determining whether bacteriological examinations shall be performed at approved laboratories of the state or at approved private laboratories.

(5) The director may establish fees for each new private water system installation, which shall be collected by the appropriate board of health and transmitted to the director pursuant to section 3709.092 of the Revised Code.

(6) All fees received by the director of health under divisions (B)(1), (3), and (5) of this section shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use in the administration and enforcement of sections 3701.344 to 3701.347 of the Revised Code and the rules pertaining to private water systems adopted under those sections.

(7) The director shall define "well," "spring," "cistern," "pond," "hauled water," and "recycled water" for purposes of this section and the rules adopted under it.

(C) To the extent that rules adopted under division (B) of this section require health districts to follow specific procedures or use prescribed forms, no such procedure or form shall be implemented until it is approved by majority vote of an approval board of health commissioners, hereby created. Members of the board shall be the officers of the association of Ohio health commissioners, or any successor organization, and membership on the board shall be coterminous with holding an office of the association. No health district is required to follow a procedure or use a form required by a rule adopted under division (B) of this section without the approval of the board.

(D) A board of health shall collect well log filing fees on behalf of the division of water resources in the department of natural resources in accordance with section 1521.05 of the Revised Code and rules adopted under it. The fees shall be submitted to the division quarterly as provided in those rules.

(E) A water system that will be used in agriculture and that does not provide water for human consumption shall not be required to obtain a permit or license issued under, pay any fees assessed or levied under, or comply with any rule adopted under sections 3701.34 to 3701.347 of the Revised Code.

**Sec. 3701.501.** (A)(1) Except as provided in division (A)(2) of this section, all newborn children shall be screened for the presence of the genetic, endocrine, and metabolic disorders specified in rules, adopted pursuant to this section.

(2) Division (A)(1) of this section does not apply in either of the following circumstances:

(a) If the parents of the child object to the screening on the grounds that it conflicts with their religious tenets and practices;

(b) With respect to the screening for Krabbe disease described in division (C)(1)(b) of this section, if the parents of the child communicate their decision to forgo the screening.

(B) There is hereby created the newborn screening advisory council to advise the director of health regarding the screening of newborn children for genetic, endocrine, and metabolic disorders. The council shall engage in an ongoing review of the newborn screening requirements established under this section and shall provide recommendations and reports to the director as the director requests and as the council considers necessary. The director may assign other duties to the council, as the director considers appropriate.

The council shall consist of fourteen members appointed by the director. In making appointments, the director shall select individuals and representatives of entities with interest and expertise in newborn screening, including such individuals and entities as health care professionals, hospitals, children's hospitals, regional genetic centers, regional sickle cell centers, newborn screening coordinators, and members of the public.

The department of health shall provide meeting space, staff services, and other technical assistance required by the council in carrying out its duties. Members of the council shall serve without compensation, but shall be reimbursed for their actual and necessary expenses incurred in attending meetings of the council or performing assignments for the council.

The council is not subject to sections 101.82 to 101.87 of the Revised Code.

(C)(1)(a) Subject to division (C)(1)(b) of this section, the director of health shall adopt rules in accordance with Chapter 119. of the Revised Code specifying the disorders for which each newborn child must be screened.

(b) In adopting the rules, the director shall specify Krabbe disease as a disorder for which a newborn child who is born on or after July 1, 2016, must be screened. The rules shall limit the screening requirement for Krabbe disease to the process known as "first tier testing," which is a screening for Krabbe disease that is accomplished by measuring galactocerebrosidase activity using mass spectrometry.

(2) The newborn screening advisory council shall evaluate genetic, metabolic, and endocrine disorders to assist the director in determining which disorders should be included in the screenings required under this section. In determining whether a disorder should be included, the council shall consider all of the following:

(a) The disorder's incidence, mortality, and morbidity;

(b) Whether the disorder causes disability if diagnosis, treatment, and early intervention are delayed;

(c) The potential for successful treatment of the disorder;

(d) The expected benefits to children and society in relation to the risks and costs associated with screening for the disorder;

(e) Whether a screening for the disorder can be conducted without taking an additional blood sample or specimen.

(3) Based on the considerations specified in division (C)(2) of this section, the council shall make recommendations to the director of health for the adoption of rules under division (C)(1) of this



section. The director shall promptly and thoroughly review each recommendation the council submits.

(D) The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards and procedures for the screenings required by this section. The rules shall include standards and procedures for all of the following:

- (1) Causing rescreenings to be performed when initial screenings have abnormal results;
- (2) Designating the person or persons who will be responsible for causing screenings and rescreenings to be performed;
- (3) Giving to the parents of a child notice of the required initial screening and the possibility that rescreenings may be necessary;
- (4) Communicating to the parents of a child the results of the child's screening and any rescreenings that are performed;
- (5) Giving notice of the results of an initial screening and any rescreenings to the person who caused the child to be screened or rescreened, or to another person or government entity when the person who caused the child to be screened or rescreened cannot be contacted;
- (6) Referring children who receive abnormal screening or rescreening results to providers of follow-up services, including the services made available through funds disbursed under division (F) of this section.

(E)(1) Except as provided in divisions (E)(2) and (3) of this section, all newborn screenings required by this section shall be performed by the public health laboratory authorized under section 3701.22 of the Revised Code.

(2) If the director determines that the public health laboratory is unable to perform screenings for all of the disorders specified in the rules adopted under division (C) of this section, the director shall select another laboratory to perform the screenings. The director shall select the laboratory by issuing a request for proposals. The director may accept proposals submitted by laboratories located outside this state. At the conclusion of the selection process, the director shall enter into a written contract with the selected laboratory. If the director determines that the laboratory is not complying with the terms of the contract, the director shall immediately terminate the contract and another laboratory shall be selected and contracted with in the same manner.

(3) Any rescreening caused to be performed pursuant to this section may be performed by the public health laboratory or one or more other laboratories designated by the director. Any laboratory the director considers qualified to perform rescreenings may be designated, including a laboratory located outside this state. If more than one laboratory is designated, the person responsible for causing a rescreening to be performed is also responsible for selecting the laboratory to be used.

(F)(1) The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a fee that shall be charged and collected in addition to or in conjunction with any laboratory fee that is charged and collected for performing the screenings required by this section. The fee, which shall be not less than fourteen dollars, shall be disbursed as follows:

(a) Not less than ten dollars and twenty-five cents shall be deposited in the state treasury to the credit of the genetics services fund, which is hereby created. Not less than seven dollars and twenty-five cents of each fee credited to the genetics services fund shall be used to defray the costs of the programs authorized by section 3701.502 of the Revised Code. Not less than three dollars from

each fee credited to the genetics services fund shall be used to defray costs of phenylketonuria programs.

(b) Not less than three dollars and seventy-five cents shall be deposited into the state treasury to the credit of the sickle cell fund, which is hereby created. Money credited to the sickle cell fund shall be used to defray costs of programs authorized by section 3701.131 of the Revised Code.

(2) In adopting rules under division (F)(1) of this section, the director shall not establish a fee that differs according to whether a screening is performed by the public health laboratory or by another laboratory selected by the director pursuant to division (E)(2) of this section.

**Sec. 3701.60.** Every hospital agency, as defined in section 140.01 of the Revised Code, may offer a uterine cytologic examination for cancer to every female in-patient twenty-one years of age or over unless contrary orders are given by the attending physician or unless the examination has been performed within the preceding year. Any female in-patient may refuse the examination. If the examination is offered, the hospital agency shall maintain records to show the examination results or that the examination was refused.

**Sec. 3701.602.**

**Sec. 3701.65.** (A) There is hereby created in the state treasury the "choose life" fund. The fund shall consist of the contributions that are paid to the registrar of motor vehicles by applicants who voluntarily elect to obtain "choose life" license plates pursuant to section 4503.91 of the Revised Code and any money returned to the fund under division (E)(1)(d) of this section. All investment earnings of the fund shall be credited to the fund.

(B)(1) At least annually, the director of health shall distribute the money in the fund to any private, nonprofit organization that is eligible to receive funds under this section and that applies for funding under division (C) of this section.

(2) The director shall allocate the funds to each county in proportion to the number of "choose life" license plates issued during the preceding year to vehicles registered in each county. The director shall distribute funds allocated for a county as follows:

- (a) To one or more eligible organizations located within the county;
- (b) If no eligible organization located within the county applies for funding, to one or more eligible organizations located in contiguous counties;
- (c) If no eligible organization located within the county or a contiguous county applies for funding, to one or more eligible organizations within any other county.

(3) The director shall ensure that any funds allocated for a county are distributed equally among eligible organizations that apply for funding within the county.

(C) Any organization seeking funds under this section annually shall apply for distribution of the funds based on the county in which the organization is located. An organization also may apply for funding in a county in which it is not located if it demonstrates that it provides services for pregnant women residing in that county. The director shall develop an application form and may determine the schedule and procedures that an organization shall follow when annually applying for funds. The application shall inform the applicant of the conditions for receiving and using funds under division (E) of this section. The application shall require evidence that the organization meets all of the following requirements:

- (1) Is a private, nonprofit organization;

- (2) Is committed to counseling pregnant women about the option of adoption;
- (3) Provides services within the state to pregnant women who are planning to place their children for adoption, including counseling and meeting the material needs of the women;
- (4) Does not charge women for any services received;
- (5) Is not involved or associated with any abortion activities, including counseling for or referrals to abortion clinics, providing medical abortion-related procedures, or pro-abortion advertising;
- (6) Does not discriminate in its provision of any services on the basis of race, religion, color, age, marital status, national origin, handicap, gender, or age;
- (7) If the organization is applying for funding in a county in which it is not located, provides services for pregnant women residing in that county.

(D) The director shall not distribute funds to an organization that does not provide verifiable evidence of the requirements specified in the application under division (C) of this section and shall not provide additional funds to any organization that fails to comply with division (E) of this section in regard to its previous receipt of funds under this section.

(E)(1) An organization receiving funds under this section shall do all of the following:

- (a) Use not more than sixty per cent of the funds distributed to it for the material needs of pregnant women who are planning to place their children for adoption or for infants awaiting placement with adoptive parents, including clothing, housing, medical care, food, utilities, and transportation;
- (b) Use not more than forty per cent of the funds distributed to it for counseling, training, or advertising;
- (c) Not use any of the funds distributed to it for administrative expenses, legal expenses, or capital expenditures;
- (d) Annually return to the fund created under division (A) of this section any unused money that exceeds ten per cent of the money distributed to the organization.

(2) The organization annually shall submit to the director an audited financial statement verifying its compliance with division (E)(1) of this section.

(F) The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules to implement this section.

It is not the intent of the general assembly that the department create a new position within the department to implement and administer this section. It is the intent of the general assembly that the implementation and administration of this section be accomplished by existing department personnel.

(G) If funds that have been allocated to a county for any previous year have not been distributed to one or more eligible organizations, the director may distribute those funds in accordance with this section.

**Sec. 3701.70.**

**Sec. 3701.701.**

**Sec. 3701.702.**

**Sec. 3701.703.**

**Sec. 3701.834.**

**Sec. 3701.95.**

**Sec. 3702.304.** (A)(1) The director of health may grant a variance from the written transfer agreement requirement of section 3702.303 of the Revised Code if the ambulatory surgical facility submits to the director a complete variance application, prescribed by the director, and the director determines after reviewing the application that the facility is capable of achieving the purpose of a written transfer agreement in the absence of one. The director's determination is final.

(2) Not later than sixty days after receiving a variance application from an ambulatory surgical facility, the director shall grant or deny the variance. A variance application that has not been approved within sixty days is considered denied.

(B) A variance application is complete for purposes of division (A)(1) of this section if it contains or includes as attachments all of the following:

(1) A statement explaining why application of the requirement would cause the facility undue hardship and why the variance will not jeopardize the health and safety of any patient;

(2) A letter, contract, or memorandum of understanding signed by the facility and one or more consulting physicians who have admitting privileges at a minimum of one local hospital, memorializing the physician or physicians' agreement to provide back-up coverage when medical care beyond the level the facility can provide is necessary;

(3) For each consulting physician described in division (B)(2) of this section:

(a) A signed statement in which the physician attests that the physician is familiar with the facility and its operations, and agrees to provide notice to the facility of any changes in the physician's ability to provide back-up coverage;

(b) The estimated travel time from the physician's main residence or office to each local hospital where the physician has admitting privileges;

(c) Written verification that the facility has a record of the name, telephone numbers, and practice specialties of the physician;

(d) Written verification from the state medical board that the physician possesses a valid license to practice medicine and surgery or osteopathic medicine and surgery issued under Chapter 4731. of the Revised Code;

(e) Documented verification that each hospital at which the physician has admitting privileges has been informed in writing by the physician that the physician is a consulting physician for the ambulatory surgical facility and has agreed to provide back-up coverage for the facility when medical care beyond the care the facility can provide is necessary.

(4) A copy of the facility's operating procedures or protocols that, at a minimum, do all of the following:

(a) Address how back-up coverage by consulting physicians is to occur, including how back-up coverage is to occur when consulting physicians are temporarily unavailable;

(b) Specify that each consulting physician is required to notify the facility, without delay, when the physician is unable to expeditiously admit patients to a local hospital and provide for continuity of patient care;

(c) Specify that a patient's medical record maintained by the facility must be transferred contemporaneously with the patient when the patient is transferred from the facility to a hospital.

(5) Any other information the director considers necessary.

(C) The director's decision to grant, refuse, or rescind a variance is final.

(D) The director shall consider each application for a variance independently without regard to any decision the director may have made on a prior occasion to grant or deny a variance to that ambulatory surgical facility or any other facility.

**Sec. 3702.309.**

**Sec. 3702.3010.**

**Sec. 3702.74.** (A) A primary care physician who has signed a letter of intent under section 3702.73 of the Revised Code and the director of health may enter into a contract for the physician's participation in the physician loan repayment program. The physician's employer or other funding source may also be a party to the contract.

(B) The contract shall include all of the following obligations:

(1) The primary care physician agrees to provide primary care services in the health resource shortage area identified in the letter of intent for the number of hours and duration specified in the contract;

(2) When providing primary care services in the health resource shortage area, the primary care physician agrees to do all of the following:

(a) Provide primary care services in an outpatient or ambulatory setting approved by the department of health;

(b) Provide primary care services without regard to a patient's ability to pay;

(c) Meet the requirements for a medicaid provider agreement and enter into the agreement with the department of medicaid to provide primary care services to medicaid recipients.

(3) The department of health agrees, as provided in section 3702.75 of the Revised Code, to repay, so long as the primary care physician performs the service obligation agreed to under division (B)(1) of this section, all or part of the principal and interest of a government or other educational loan taken by the primary care physician for expenses described in section 3702.75 of the Revised Code;

(4) The primary care physician agrees to pay the department of health an amount established by rules adopted under section 3702.79 of the Revised Code if the physician fails to complete the service obligation agreed to under division (B)(1) of this section.

(C) The contract shall include the following terms as agreed upon by the parties:

(1) The primary care physician's required length of service in the health resource shortage area, which must be at least two years;

(2) The number of weekly hours the primary care physician will be engaged in full-time practice or part-time practice in the health resource shortage area;

(3) The maximum amount that the department will repay on behalf of the primary care physician;

(4) The extent to which the primary care physician's teaching activities will be counted toward the physician's full-time practice or part-time practice hours under the contract.

(D) If the amount specified in division (C)(3) of this section includes federal funds, the amount of state funds repaid on the individual's behalf shall be the same as the amount of those federal funds.

**Sec. 3702.91.** (A) As used in this section:

(1) "Full-time practice" and "part-time practice" have the same meanings as in section 3702.71 of the Revised Code;

(2) "Teaching activities" means providing clinical education to dental students and residents and dental health profession students at the service site specified in the contract described in division (B) of this section.

(B) An individual who has signed a letter of intent may enter into a contract with the director of health for participation in the dentist loan repayment program. The dentist's employer or other funding source may also be a party to the contract.

(C) The contract shall include all of the following obligations:

(1) The individual agrees to provide dental services in the dental health resource shortage area identified in the letter of intent for the number of hours and duration specified in the contract.

(2) When providing dental services in the dental health resource shortage area, the individual agrees to do all of the following:

(a) Provide dental services in a service site approved by the department of health;

(b) Provide dental services without regard to a patient's ability to pay;

(c) Meet the requirements for a medicaid provider agreement and enter into the agreement with the department of medicaid to provide dental services to medicaid recipients.

(3) The department of health agrees, as provided in section 3702.85 of the Revised Code, to repay, so long as the individual performs the service obligation agreed to under division (C)(1) of this section, all or part of the principal and interest of a government or other educational loan taken by the individual for expenses described in section 3702.85 of the Revised Code.

(4) The individual agrees to pay the department of health an amount established by rules adopted under section 3702.86 of the Revised Code, if the individual fails to complete the service obligation agreed to under division (C)(1) of this section.

(D) The contract shall include the following terms as agreed upon by the parties:

(1) The individual's required length of service in the dental health resource shortage area, which must be at least two years;

(2) The number of weekly hours the individual will be engaged in full-time practice or part-time practice;

(3) The maximum amount that the department will repay on behalf of the individual;

(4) The extent to which the individual's teaching activities will be counted toward the individual's full-time practice or part-time practice hours under the contract.

(E) If the amount specified in division (D)(3) of this section includes federal funds, the amount of state funds repaid on the individual's behalf shall be the same as the amount of those federal funds.

**Sec. 3704.05.** (A) No person shall cause, permit, or allow emission of an air contaminant in violation of any rule adopted by the director of environmental protection under division (E) of section 3704.03 of the Revised Code unless the person is the holder of a variance that is issued under division (H) of that section and consistent with the federal Clean Air Act permitting the emission of the contaminant in excess of that permitted by the rule or the person is the holder of an operating permit that includes a compliance schedule issued pursuant to rules adopted under division (G) of section 3704.03 of the Revised Code.

(B) No person who is the holder of a variance issued under division (H) of section 3704.03 of the Revised Code shall cause, permit, or allow emission of an air contaminant or contaminants listed therein in violation of the conditions of the variance or fail to obey an order of the director issued under authority of that division.

(C) No person who is the holder of a permit issued under division (F) or (G) of section 3704.03 of the Revised Code shall violate any of its terms or conditions.

(D) No person shall fail to install and maintain monitoring devices or to submit reports or other information as may be required under division (I) of section 3704.03 of the Revised Code.

(E) No person to whom a permit or variance has been issued shall refuse entry to an authorized representative of the director or the environmental protection agency as provided in division (L) of section 3704.03 of the Revised Code or hinder or thwart the person in making an investigation.

(F) No person shall fail to submit plans and specifications as required by section 3704.03 of the Revised Code.

(G) No person shall violate any order, rule, or determination of the director issued, adopted, or made under this chapter.

(H) No person shall do any of the following:

(1) Falsify any plans, specifications, data, reports, records, or other information required to be kept or submitted to the director by this chapter or rules adopted under it;

(2) Make any false material statement, representation, or certification in any form, notice, or report required by the Title V permit program;

(3) Render inaccurate any monitoring device required by a Title V permit.

Violation of division (H)(1), (2), or (3) of this section is not also falsification under section 2921.13 of the Revised Code.

(I) No person shall knowingly falsify an inspection certificate submitted to another under section 3704.14 or Chapter 4503. of Revised Code. Violation of this division is not also falsification under section 2921.13 of the Revised Code.

(J) No person shall do either of the following:

(1) With regard to the Title V permit program, fail to pay any administrative penalty assessed in accordance with rules adopted under division (S) of section 3704.03 of the Revised Code or any fee assessed under section 3745.11 of the Revised Code;

(2) Violate any applicable requirement of a Title V permit or any permit condition, except for an emergency as defined in 40 C.F.R. 70.6 (g), or filing requirement of the Title V permit program, any duty to allow or carry out inspection, entry, or monitoring activities, or any rule adopted or order issued by the director pursuant to the Title V permit program.

(K) On and after the three hundred sixty-sixth day following the administrator's final approval of the Title V permit program, or on and after the three hundred sixty-sixth day following the commencement of operation of a new major source required to comply with section 112(g) or part C or D of Title I of the federal Clean Air Act, whichever is later, no person shall operate any such source that is required to obtain a Title V permit under section 3704.036 of the Revised Code or rules adopted under it unless such a permit has been issued authorizing operation of the source or unless a complete and timely application for the issuance, renewal, or modification of a Title V permit for the

source has been submitted to the director under that section.

**Sec. 3704.14.** (A)(1) If the director of environmental protection determines that implementation of a motor vehicle inspection and maintenance program is necessary for the state to effectively comply with the federal Clean Air Act after June 30, 2015, the director may provide for the implementation of the program in those counties in this state in which such a program is federally mandated. Upon making such a determination, the director of environmental protection may request the director of administrative services to extend the terms of the contract that was entered into under the authority of Am. Sub. H.B. 153 of the 129th general assembly. Upon receiving the request, the director of administrative services shall extend the contract, beginning on July 1, 2015, in accordance with this section. The contract shall be extended for a period of up to twenty-four months with the contractor who conducted the motor vehicle inspection and maintenance program under that contract.

(2) Prior to the expiration of the contract extension that is authorized by division (A)(1) of this section, the director of environmental protection shall request the director of administrative services to enter into a contract with a vendor to operate a decentralized motor vehicle inspection and maintenance program in each county in this state in which such a program is federally mandated through June 30, 2019, with an option for the state to renew the contract for a period of up to twenty-four months through June 30, 2021. The contract shall ensure that the decentralized motor vehicle inspection and maintenance program achieves at least the same emission reductions as achieved by the program operated under the authority of the contract that was extended under division (A)(1) of this section. The director of administrative services shall select a vendor through a competitive selection process in compliance with Chapter 125. of the Revised Code.

(3) Notwithstanding any law to the contrary, the director of administrative services shall ensure that a competitive selection process regarding a contract to operate a decentralized motor vehicle inspection and maintenance program in this state incorporates the following, which shall be included in the contract:

(a) For purposes of expanding the number of testing locations for consumer convenience, a requirement that the vendor utilize established local businesses, auto repair facilities, or leased properties to operate state-approved inspection and maintenance testing facilities;

(b) A requirement that the vendor selected to operate the program provide notification of the program's requirements to each owner of a motor vehicle that is required to be inspected under the program. The contract shall require the notification to be provided not later than sixty days prior to the date by which the owner of the motor vehicle is required to have the motor vehicle inspected. The director of environmental protection and the vendor shall jointly agree on the content of the notice. However, the notice shall include at a minimum the locations of all inspection facilities within a specified distance of the address that is listed on the owner's motor vehicle registration;

(c) A requirement that the vendor comply with testing methodology and supply the required equipment approved by the director of environmental protection as specified in the competitive selection process in compliance with Chapter 125. of the Revised Code.

(4) A decentralized motor vehicle inspection and maintenance program operated under this section shall comply with division (B) of this section. The director of environmental protection shall administer the decentralized motor vehicle inspection and maintenance program operated under this section.



(B) The decentralized motor vehicle inspection and maintenance program authorized by this section, at a minimum, shall do all of the following:

- (1) Comply with the federal Clean Air Act;
- (2) Provide for the issuance of inspection certificates;
- (3) Provide for a new car exemption for motor vehicles four years old or newer and provide that a new motor vehicle is exempt for four years regardless of whether legal title to the motor vehicle is transferred during that period.

(C) The director of environmental protection shall adopt rules in accordance with Chapter 119. of the Revised Code that the director determines are necessary to implement this section. The director may continue to implement and enforce rules pertaining to the motor vehicle inspection and maintenance program previously implemented under former section 3704.14 of the Revised Code as that section existed prior to its repeal and reenactment by Am. Sub. H.B. 66 of the 126th general assembly, provided that the rules do not conflict with this section.

(D) There is hereby created in the state treasury the auto emissions test fund, which shall consist of money received by the director from any cash transfers, state and local grants, and other contributions that are received for the purpose of funding the program established under this section. The director of environmental protection shall use money in the fund solely for the implementation, supervision, administration, operation, and enforcement of the motor vehicle inspection and maintenance program established under this section. Money in the fund shall not be used for either of the following:

(1) To pay for the inspection costs incurred by a motor vehicle dealer so that the dealer may provide inspection certificates to an individual purchasing a motor vehicle from the dealer when that individual resides in a county that is subject to the motor vehicle inspection and maintenance program;

(2) To provide payment for more than one free passing emissions inspection or a total of three emissions inspections for a motor vehicle in any three-hundred-sixty-five-day period. The owner or lessee of a motor vehicle is responsible for inspection fees that are related to emissions inspections beyond one free passing emissions inspection or three total emissions inspections in any three-hundred-sixty-five-day period. Inspection fees that are charged by a contractor conducting emissions inspections under a motor vehicle inspection and maintenance program shall be approved by the director of environmental protection.

(E) The motor vehicle inspection and maintenance program established under this section expires upon the termination of all contracts entered into under this section and shall not be implemented beyond the final date on which termination occurs.

**Sec. 3705.08.** (A) The director of health, by rule, shall prescribe the form of records and certificates required by this chapter. Records and certificates shall include the items and information prescribed by the director, including the items recommended by the national center for health statistics of the United States department of health and human services, subject to approval of and modification by the director.

(B) All birth certificates shall include a statement setting forth the names of the child's parents.

(C) All death certificates shall include, in the medical certification portion of the certificate, a

space to indicate, if the deceased individual is female and the manner of death is determined to be a suspicious or violent death, whether any of the following conditions apply to the individual:

- (1) Not pregnant within the past year;
- (2) Pregnant at the time of death;
- (3) Not pregnant, but had been pregnant within forty-two days prior to the time of death;
- (4) Not pregnant, but had been pregnant within forty-three days to one year prior to the time of death;
- (5) Unknown whether pregnant within the past year.

(D)(1) The director shall prescribe electronic methods and forms for obtaining registration of births, deaths, and other vital statistics in each registration district, and for preserving the records of the office of vital statistics, and no forms or blanks shall be used other than those prescribed by the director.

(2) All birth, fetal death, and death records and certificates shall be certified. Except as provided in division (G) of section 3705.09, section 3705.12, 3705.121, 3705.122, or 3705.124, division (D) of section 3705.15, or section 3705.16 of the Revised Code, a birth certificate requiring signature may be electronically certified by the person in charge of the institution or that person's designee. A death certificate may be electronically certified by the individual who attests to the facts of death.

(3) All vital records shall contain the date received for filing.

(4) Information and signatures required in certificates, records, or reports authorized by this chapter may be filed and registered by photographic, electronic, or other means as prescribed by the director.

**Sec. 3705.231.**

**Sec. 3707.57.**

**Sec. 3709.03.** (A) There is hereby created in each general health district a district advisory council. A council shall consist of the president of the board of county commissioners, the chief executive of each municipal corporation not constituting a city health district, and the president of the board of township trustees of each township. The board of county commissioners, the legislative body of a municipal corporation, and the board of township trustees of a township may select an alternate from among themselves to serve if the president, the chief executive, or the president of the board of township trustees is unable to attend any meeting of the district advisory council. When attending a meeting on behalf of a council member, the alternate may vote on any matter on which the member is authorized to vote.

The council shall organize by selecting a chair and secretary from among its members. The council shall adopt bylaws governing its meetings, the transaction of business, and voting procedures.

The council shall meet annually in March at a place determined by the chair and the health commissioner for the purpose of electing the chair and the secretary, making necessary appointments to the board of health, receiving and considering the annual or special reports from the board of health, and making recommendations to the board of health or to the department of health in regard to matters for the betterment of health and sanitation within the district or for needed legislation. The secretary of the council shall notify the district health commissioner and the director of health of the

proceedings of such meeting.

Special meetings of the council shall be held on the order of any of the following:

- (1) The director of health;
- (2) The board of health;
- (3) The lesser of five or a majority of district advisory council members.

The district health commissioner shall attend all meetings of the council.

(B) The district advisory council shall appoint five members of the board of health, unless the board of health has established a health district licensing council under section 3709.41 of the Revised Code, in which case, the district advisory council shall appoint four members of the board of health, and the health district licensing council shall appoint one member of the board of health. At least one member of the board of health shall be a physician. Appointments shall be made with due regard to equal representation of all parts of the district.

(C) If at an annual or special meeting at which a member of the board of health is to be appointed fewer than a majority of the members of the district council are present, the council, by the majority vote of council members present, may organize an executive committee to make the appointment. An executive committee shall consist of five council members, including the president of the board of county commissioners, the council chair, the council secretary, and two additional council members selected by majority affirmative vote of the council members present at the meeting. The additional members selected shall include one representative of municipal corporations in the district that are not city health districts and one representative of townships in the district. If an individual is eligible for more than one position on the executive committee due to holding a particular office, the individual shall fill one position on the committee and the other position shall be filled by a member selected by a majority affirmative vote of the council members present at the meeting. A council member's alternate for annual meetings may serve as the member's alternate at meetings of the executive committee.

Not later than thirty days after an executive committee is organized, the committee shall meet and the council chair shall present to the committee the matter of appointing a member of the board of health. The committee shall appoint the board member by majority affirmative vote. In the case of a combined health district, the executive committee shall appoint only members of the board of health that are to be appointed by the district advisory council, unless the contract for administration of health affairs in the combined district provides otherwise. If a majority affirmative vote is not reached within thirty days after the executive committee is organized, the director of health shall appoint the member of the board of health under the authority conferred by section 3709.03 of the Revised Code.

If the council fails to meet or appoint a member of the board of health as required by this section or section 3709.02 of the Revised Code, the director of health may appoint the member.

**Sec. 3709.05.** (A) Unless an administration of public health different from that specifically provided in this section is established and maintained under authority of its charter, or unless a combined city health district is formed under section 3709.051 of the Revised Code, the legislative authority of each city constituting a city health district shall establish a board of health. The board of health shall be composed of five members appointed by the mayor and confirmed by the legislative authority, unless the board of health has established a health district licensing council under section

3709.41 of the Revised Code, in which case, the mayor shall appoint four members of the board of health, confirmed by the legislative authority, and the health district licensing council shall appoint one member of the board of health.

(B) Each member of the board shall be paid a sum not to exceed eighty dollars a day for the member's attendance at each meeting of the board. No member shall receive compensation for attendance at more than eighteen meetings in any year.

(C) Each member of the board shall receive travel expenses at rates established by the director of budget and management pursuant to section 126.31 of the Revised Code to cover the actual and necessary travel expenses incurred for travel to and from meetings that take place outside the county in which the member resides, except that any member may receive travel expenses for registration for any conference that takes place inside the county in which the member resides.

(D) A majority of the members constitutes a quorum, and the mayor shall be president of the board.

(E) The term of office of the members shall be five years from the date of appointment, except that of those first appointed, one shall serve for five years, one for four years, one for three years, one for two years, and one for one year, and thereafter one shall be appointed each year.

A vacancy in the membership of the board shall be filled in like manner as an original appointment and shall be for the unexpired term.

**Sec. 3709.07.** Except as provided in section 3709.071 of the Revised Code, when it is proposed that one or more city health districts unite with a general health district in the formation of a single district, the district advisory council of the general health district shall meet and vote on the question of union. It shall require a majority affirmative vote of the members of the district advisory council to carry the question. The legislative authority of each city shall likewise vote on the question. A majority voting affirmatively shall be required for approval. When the majority of the district advisory council and the legislative authority have voted affirmatively, the chair of the council and the chief executive of each city shall enter into a contract for the administration of health affairs in the combined district. Such contract shall state the proportion of the expenses of the board of health or health department of the combined district to be paid by the city or cities and by the original general health district. The contract may provide that the administration of the combined district shall be taken over by either the board of health or health department of one of the cities, by the board of health of the general health district, or by a combined board of health. Such contract shall prescribe the date on which such change of administration shall be made. A copy of such contract shall be filed with the director of health.

The combined district shall constitute a general health district, and the board of health or health department of the city, the board of health of the original general health district, or the combined board of health, as may be agreed in the contract, shall have, within the combined district, all the powers granted to, and perform all the duties required of, the board of health of a general health district.

The district advisory council of the combined general health district shall consist of the members of the district advisory council of the original general health district and the chief executive of each city constituting a city health district, each member having one vote.

If the contract provides that the administration of the combined district shall be taken over by

a combined board of health, rather than the board of health of the original health district, the contract shall set forth the number of members of such board, their terms of office, and the manner of appointment or election of officers. One of the members of such combined board of health shall be a physician, and one member shall be an individual appointed by the health district licensing council, if such council is established under section 3709.41 of the Revised Code. The contract may also provide for the representation of areas by one or more members and shall, in such event, specify the territory to be included in each such area.

The appointment of any member of the combined board who is designated by the provisions of the contract to represent a city shall be made by the chief executive and approved by the legislative authority of such city. If a member is designated by the contract to represent more than one city, the member shall be appointed by majority vote of the chief executives of all cities included in any such area. Except for the member appointed by the health district licensing council, if such council is established, the appointment of all members of the combined board who are designated to represent the balance of the district shall be made by the district advisory council.

The service status of any person employed by a city or general health district shall not be affected by the creation of a combined district.

**Sec. 3709.41.** (A) The board of health of each city and of each general health district may establish a health district licensing council, to be appointed by the entity that has responsibility for appointing the board of health in the health district. The members of the council shall consist of one representative of each business activity for which the board of health operates a licensing program. To be appointed and remain a member, an individual shall be a resident of the health district for which the council was created.

The appointing authority shall make initial appointments to the council not later than thirty days after the board of health establishes the council. Of the initial appointments to the council, one-third of the members, rounded to the nearest whole number, shall serve for a term ending three years after the date of appointment; one-third, rounded to the nearest whole number, shall serve for a term ending four years after the date of appointment; and the remaining members shall serve for a term ending five years after the date of appointment. Thereafter, terms of office shall be five years, with each term ending on the same day of the same month as did the term that it succeeds.

Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Members may be reappointed.

Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

Members shall serve without compensation, except to the extent that serving on the council is part of their regular duties of employment.

(B) Each health district licensing council shall organize by selecting from among its members a chairperson, a secretary, and any other officers it considers necessary. Each council shall adopt bylaws for the regulation of its affairs and the conduct of its business.

Each council shall meet at least annually or at more frequent intervals if specified in its

bylaws. In addition to the mandatory meetings, a council shall meet at the call of the chairperson or the request of a majority of the council members.

(C) Pursuant to sections 3709.03, 3709.05, and 3709.07 of the Revised Code, the health district licensing council, if established by the board of health, shall appoint one member of the board of health. The council shall appoint one of its members to serve as an alternate board of health member if for any reason the original member is required to abstain from voting on a particular issue being considered by the board of health. While serving on behalf of the original member, the alternate member has the same powers and duties as the original member.

**Sec. 3714.051.** (A)(1) Not later than one hundred eighty days after December 22, 2005, and in accordance with rules adopted under section 3714.02 of the Revised Code, the director of environmental protection shall establish a program for the issuance of permits to install for new construction and demolition debris facilities.

(2) On and after December 22, 2005, no person shall establish a new construction and demolition debris facility without first obtaining a permit to install issued by the board of health of the health district in which the facility is or is to be located or from the director if the facility is or is to be located in a health district that is not on the approved list under section 3714.09 of the Revised Code or if a board of health requests the director to issue the permit to install under division (G) of this section.

(B) The director, the director's authorized representative, a board of health, or an authorized representative of the board may assist an applicant for a permit to install during the permitting process by providing guidance and technical assistance.

(C) An applicant for a permit to install shall submit an application to a board of health or the director, as applicable, on a form that the director prescribes. The applicant shall include with the application all of the following:

(1) The name and address of the applicant, of all partners if the applicant is a partnership or of all officers and directors if the applicant is a corporation, and of any other person who has a right to control or in fact controls management of the applicant or the selection of officers, directors, or managers of the applicant;

(2) The designs and plans for the construction and demolition debris facility that include the location or proposed location of the facility, design and construction plans and specifications, anticipated beginning and ending dates for work performed, and any other related information that the director requires by rule;

(3) The information required under section 3714.052 of the Revised Code;

(4) An application fee of two thousand dollars. A board of health shall deposit money collected under division (C)(4) of this section into the special fund of the health district created under section 3714.07 of the Revised Code. The director shall transmit money collected under division (C)(4) of this section to the treasurer of state to be credited to the waste management fund created in section 3734.061 of the Revised Code. Not later than six months after a facility that is issued a permit to install begins accepting construction and demolition debris for disposal, a board of health or the director, as applicable, shall refund the application fee received under division (C)(4) of this section to the person that submitted the application for the permit to install.

(5) Any other information required by the director in accordance with rules adopted under

section 3714.02 of the Revised Code.

(D) A permit to install may be issued with terms and conditions that a board of health or the director, as applicable, finds necessary to ensure that the facility will comply with this chapter and rules adopted under it and to protect public health and safety and the environment.

(E) A permit to install shall expire after a time period specified by the director or board of health, as applicable, in accordance with rules adopted under section 3714.02 of the Revised Code unless the applicant has undertaken a continuing program of construction or has entered into a binding contractual obligation to undertake and complete a continuing program of construction within a reasonable time, in which case the director or board, as applicable, may extend the expiration date of a permit to install upon request of the applicant.

(F) The director or a board of health, as applicable, may issue, deny, modify, suspend, or revoke a permit to install in accordance with rules.

(G) A board of health shall notify the director of its receipt of an application for a permit to install. A board of health, or its authorized representative, may request the director to review an application, or part of an application, for a permit to install and also may request that the director issue or deny it when the board determines that additional expertise is required. The director shall comply with such a request.

Upon a board of health's issuance of a permit to install for a new construction and demolition debris facility under this section, the board shall mail a copy of the permit to the director together with approved plans, specifications, and information regarding the facility.

(H) In accordance with rules adopted under section 3714.022 of the Revised Code, the director shall establish a program for the issuance of permits to install for processing facilities. On and after ~~the effective date of this section~~ October 6, 2017, no person shall establish a processing facility without first obtaining a permit to install issued by the board of health of the health district in which the processing facility is or is to be located or from the director if the facility is or is to be located in a health district that is not on the approved list under section 3714.09 of the Revised Code. An applicant for a permit to install shall submit an application to a board of health or the director, as applicable, on a form and in the manner that the director prescribes.

(I) A permit to install for a processing facility may be issued with terms and conditions that a board of health or the director, as applicable, finds necessary to ensure that the facility will comply with this chapter and rules adopted under it and to protect public health and safety and the environment. The director or a board of health, as applicable, may issue, deny, modify, suspend, or revoke a permit to install in accordance with rules.

**Sec. 3714.07.** (A)(1) For the purpose of assisting boards of health and the environmental protection agency in administering and enforcing this chapter and rules adopted under it, there is hereby levied a fee of thirty cents per cubic yard or sixty cents per ton, as applicable, on both of the following:

(a) The disposal of construction and demolition debris at a construction and demolition debris facility that is licensed under this chapter or at a solid waste facility that is licensed under Chapter 3734. of the Revised Code;

(b) The disposal of asbestos or asbestos-containing materials or products at a construction and demolition debris facility that is licensed under this chapter or at a solid waste facility that is

licensed under Chapter 3734. of the Revised Code.

(2) The owner or operator of a construction and demolition debris facility or a solid waste facility shall determine if cubic yards or tons will be used as the unit of measurement. If basing the fee on cubic yards, the owner or operator shall utilize either the maximum cubic yard capacity of the container, or the hauling volume of the vehicle, that transports the construction and demolition debris to the facility or the cubic yards actually logged for disposal by the owner or operator in accordance with rules adopted under section 3714.02 of the Revised Code. If basing the fee on tonnage, the owner or operator shall use certified scales to determine the tonnage of construction and demolition debris that is disposed of.

(3) The owner or operator of a construction and demolition debris facility or a solid waste facility shall calculate the amount of money generated from the fee levied under division (A)(1) of this section and shall hold that amount as a trustee for the health district having jurisdiction over the facility, if that district is on the approved list under section 3714.09 of the Revised Code, or for the state. The owner or operator shall prepare and file with the appropriate board of health or the director of environmental protection monthly returns indicating the total volume or weight, as applicable, of construction and demolition debris and asbestos or asbestos-containing materials or products disposed of at the facility and the total amount of money generated during that month from the fee levied under division (A)(1) of this section on the disposal of construction and demolition debris and asbestos or asbestos-containing materials or products. Not later than thirty days after the last day of the month to which the return applies, the owner or operator shall mail to the board of health or the director the return for that month together with the amount of money calculated under division (A)(3) of this section on the disposal of construction and demolition debris and asbestos or asbestos-containing materials or products during that month or may submit the return and money electronically in a manner approved by the director. The owner or operator may request, in writing, an extension of not more than thirty days after the last day of the month to which the return applies. A request for extension may be denied. If the owner or operator submits the money late, the owner or operator shall pay a penalty of ten per cent of the amount of the money due for each month that it is late.

(4) Of the money that is submitted by a construction and demolition debris facility or a solid waste facility on a per cubic yard or per ton basis under this section, a board of health shall transmit three cents per cubic yard or six cents per ton, as applicable, to the director not later than forty-five days after the receipt of the money. The money retained by a board of health under this section shall be paid into a special fund, which is hereby created in each health district, and used solely for the following purposes:

- (a) To administer and enforce this chapter and rules adopted under it;
- (b) To abate abandoned accumulations of construction and demolition debris as provided in section 3714.074 of the Revised Code.

The director shall transmit all money received under this section to the treasurer of state to be deposited in the state treasury to the credit of the waste management fund created in section 3734.061 of the Revised Code.

(B) The board of health of a health district or the director may enter into an agreement with the owner or operator of a construction and demolition debris facility or a solid waste facility for the



quarterly payment of money generated from the disposal fee as calculated in division (A)(3) of this section. The board of health shall notify the director of any such agreement. Not later than forty-five days after receipt of the quarterly payment, the board of health shall transmit the amount established in division (A)(4) of this section to the director. The money retained by the board of health shall be deposited in the special fund of the district as required under that division. Upon receipt of the money from a board of health, the director shall transmit the money to the treasurer of state to be credited to the waste management fund.

(C) If a construction and demolition debris facility or a solid waste facility is located within the territorial boundaries of a municipal corporation or the unincorporated area of a township, the municipal corporation or township may appropriate up to four cents per cubic yard or up to eight cents per ton of the disposal fee required to be paid by the facility under division (A)(1) of this section for the same purposes that a municipal corporation or township may levy a fee under division (C) of section 3734.57 of the Revised Code.

The legislative authority of the municipal corporation or township may appropriate the money from the fee by enacting an ordinance or adopting a resolution establishing the amount of the fee to be appropriated. Upon doing so, the legislative authority shall mail a certified copy of the ordinance or resolution to the board of health of the health district in which the construction and demolition debris facility or the solid waste facility is located or, if the facility is located in a health district that is not on the approved list under section 3714.09 of the Revised Code, to the director. Upon receipt of the copy of the ordinance or resolution and not later than forty-five days after receipt of money generated from the fee, the board or the director, as applicable, shall transmit to the treasurer or other appropriate officer of the municipal corporation or clerk of the township that portion of the money generated from the disposal fee by the owner or operator of the facility that is required by the ordinance or resolution to be paid to that municipal corporation or township.

Money received by the treasurer or other appropriate officer of a municipal corporation under this division shall be paid into the general fund of the municipal corporation. Money received by the clerk of a township under this division shall be paid into the general fund of the township. The treasurer or other officer of the municipal corporation or the clerk of the township, as appropriate, shall maintain separate records of the money received under this division.

The legislative authority of a municipal corporation or township may cease appropriating money under this division by repealing the ordinance or resolution that was enacted or adopted under this division.

The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing requirements for prorating the amount of the fee that may be appropriated under this division by a municipal corporation or township in which only a portion of a construction and demolition debris facility is located within the territorial boundaries of the municipal corporation or township.

(D) The board of county commissioners of a county in which a construction and demolition debris facility or a solid waste facility is located may appropriate up to three cents per cubic yard or up to six cents per ton of the disposal fee required to be paid by the facility under division (A)(1) of this section for the same purposes that a solid waste management district may levy a fee under division (B) of section 3734.57 of the Revised Code.

The board of county commissioners may appropriate the money from the fee by adopting a resolution establishing the amount of the fee to be appropriated. Upon doing so, the board of county commissioners shall mail a certified copy of the resolution to the board of health of the health district in which the construction and demolition debris facility or the solid waste facility is located or, if the facility is located in a health district that is not on the approved list under section 3714.09 of the Revised Code, to the director. Upon receipt of the copy of the resolution and not later than forty-five days after receipt of money generated from the fee, the board of health or the director, as applicable, shall transmit to the treasurer of the county that portion of the money generated from the disposal fee by the owner or operator of the facility that is required by the resolution to be paid to that county.

Money received by a county treasurer under this division shall be paid into the general fund of the county. The county treasurer shall maintain separate records of the money received under this division.

A board of county commissioners may cease appropriating money under this division by repealing the resolution that was adopted under this division.

(E)(1) This section does not apply to the disposal of construction and demolition debris at a solid waste facility that is licensed under Chapter 3734. of the Revised Code if there is no construction and demolition debris facility licensed under this chapter within thirty-five miles of the solid waste facility as determined by a facility's property boundaries.

(2) This section does not apply to the disposal of construction and demolition debris at a solid waste facility that is licensed under Chapter 3734. of the Revised Code if the owner or operator of the facility chooses to collect fees on the disposal of the construction and demolition debris and asbestos or asbestos-containing materials or products that are identical to the fees that are collected under Chapters 343. and 3734. of the Revised Code on the disposal of solid wastes at that facility.

(3) This section does not apply to the disposal of source separated materials that are exclusively composed of reinforced or nonreinforced concrete, asphalt, clay tile, building or paving brick, or building or paving stone at a construction and demolition debris facility that is licensed under this chapter when either of the following applies:

(a) The materials are placed within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, are not placed within the unloading zone of the facility, and are used as a fire prevention measure in accordance with rules adopted by the director under section 3714.02 of the Revised Code.

(b) The materials are not placed within the unloading zone of the facility or within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, but are used as fill material, either alone or in conjunction with clean soil, sand, gravel, or other clean aggregates, in legitimate fill operations for construction purposes at the facility or to bring the facility up to a consistent grade.

**Sec. 3714.073.** (A) In addition to the fee levied under division (A)(1) of section 3714.07 of the Revised Code, beginning July 1, 2005, there is hereby levied on the disposal of construction and demolition debris at a construction and demolition debris facility that is licensed under this chapter or at a solid waste facility that is licensed under Chapter 3734. of the Revised Code and on the disposal of asbestos or asbestos-containing materials or products at a construction and demolition debris facility that is licensed under this chapter or at a solid waste facility that is licensed under Chapter

3734. of the Revised Code the following fees:

(1) A fee of twelve and one-half cents per cubic yard or twenty-five cents per ton, as applicable, the proceeds of which shall be deposited in the state treasury to the credit of the soil and water conservation district assistance fund created in section 940.15 of the Revised Code;

(2) A fee of thirty-seven and one-half cents per cubic yard or seventy-five cents per ton, as applicable, the proceeds of which shall be deposited in the state treasury to the credit of the recycling and litter prevention fund created in section 3736.03 of the Revised Code.

(B) The owner or operator of a construction and demolition debris facility or a solid waste facility, as a trustee of the state, shall calculate the amount of money generated from the fees levied under this section and remit the money from the fees in the manner that is established in divisions (A)(2) and (3) of section 3714.07 of the Revised Code for the fee that is levied under division (A)(1) of that section and may enter into an agreement for the quarterly payment of money generated from the fees in the manner established in division (B) of that section for the quarterly payment of money generated from the fee that is levied under division (A)(1) of that section.

(C) The amount of money that is calculated by the owner or operator of a construction and demolition debris facility or a solid waste facility and remitted to a board of health or the director of environmental protection, as applicable, pursuant to this section shall be transmitted by the board or director to the treasurer of state not later than forty-five days after the receipt of the money to be credited to the soil and water conservation district assistance fund or the recycling and litter prevention fund, as applicable.

(D) This section does not apply to the disposal of construction and demolition debris at a solid waste facility that is licensed under Chapter 3734. of the Revised Code if the owner or operator of the facility chooses to collect fees on the disposal of the construction and demolition debris and asbestos or asbestos-containing materials or products that are identical to the fees that are collected under Chapters 343. and 3734. of the Revised Code on the disposal of solid wastes at that facility.

(E) This section does not apply to the disposal of source separated materials that are exclusively composed of reinforced or nonreinforced concrete, asphalt, clay tile, building or paving brick, or building or paving stone at a construction and demolition debris facility that is licensed under this chapter when either of the following applies:

(1) The materials are placed within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, are not placed within the unloading zone of the facility, and are used as a fire prevention measure in accordance with rules adopted by the director under section 3714.02 of the Revised Code.

(2) The materials are not placed within the unloading zone of the facility or within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, but are used as fill material, either alone or in conjunction with clean soil, sand, gravel, or other clean aggregates, in legitimate fill operations for construction purposes at the facility or to bring the facility up to a consistent grade.

**Sec. 3714.08.** (A) At least annually, the board of health of a health district or the director of environmental protection shall cause each construction and demolition debris facility for which the board or the director, as appropriate, issued a license under section 3714.06 of the Revised Code to

be inspected and shall cause a record to be made of each inspection. The board or the director shall require each such facility to be in substantial compliance with this chapter and rules adopted under it.

(B) Within thirty days after the issuance of a license, the board of health shall certify to the director of environmental protection that the construction and demolition debris facility has been inspected and is in substantial compliance with this chapter and rules adopted under it. Each board of health shall provide the director with such other information as the director may require from time to time.

(C) The board of health or its authorized representative and the director or the director's authorized representative, upon proper identification and upon stating the purpose and necessity of an inspection, may enter at reasonable times upon any public or private property, real or personal, to inspect or investigate, obtain samples, and examine or copy records to determine compliance with this chapter and rules adopted under it. The board of health or its authorized representative or the director or the director's authorized representative may apply for, and any judge of a court of record may issue, an appropriate search warrant necessary to achieve the purposes of this chapter and rules adopted under it within the court's territorial jurisdiction. If entry is refused or inspection or investigation is refused, hindered, or thwarted, the board of health or the director may suspend or revoke the construction and demolition debris facility's license.

(D) If the entry authorized by division (C) of this section is refused or if the inspection or investigation so authorized is refused, hindered, or thwarted by intimidation or otherwise and if the director, the board of health, or authorized representative of either applies for and obtains a search warrant under division (C) of this section to conduct the inspection or investigation, the owner or operator of the premises where entry was refused or inspection or investigation was refused, hindered, or thwarted is liable to the director or board of health for the reasonable costs incurred by either for all of the following:

(1) The regular salaries and fringe benefit costs of personnel assigned to conduct the inspection or investigation from the time the entry, inspection, or investigation was refused, hindered, or thwarted until the search warrant is executed;

(2) The salary, fringe benefits, and travel expenses of the attorney general, prosecuting attorney of the county, or city director of law, or an authorized assistant, incurred in obtaining the search warrant;

(3) Expenses necessarily incurred for the assistance of local law enforcement officers in executing the search warrant.

In the application for a search warrant, the director or board of health may request and the court, in its order granting the search warrant, may order the owner or operator of the premises to reimburse the director or board of health for such of those costs as the court finds reasonable. From moneys recovered under this division, the director shall reimburse the attorney general for the costs incurred by the attorney general or the attorney general's authorized assistant in connection with proceedings for obtaining the search warrant, shall reimburse the political subdivision in which the premises is located for the assistance of its law enforcement officers in executing the search warrant, and shall deposit the remainder in the state treasury to the credit of the waste management fund created in section 3734.061 of the Revised Code. From moneys recovered under this division, the board of health shall reimburse the prosecuting attorney of the county or the city director of law for

the costs incurred by the prosecuting attorney or the city director of law or the authorized assistant of the prosecuting attorney or the city director of law in connection with proceedings for obtaining the search warrant, shall reimburse the political subdivision in which the premises is located for the assistance of its law enforcement officers in executing the search warrant, and shall deposit the remainder of any such moneys to the credit of the special fund of the health district created in section 3714.07 of the Revised Code.

**Sec. 3714.09.** (A) The director of environmental protection shall place each health district that is on the approved list under division (A) or (B) of section 3734.08 of the Revised Code on the approved list for the purposes of issuing permits to install and licenses under this chapter. Any survey or resurvey of any such health district conducted under section 3734.08 of the Revised Code shall also determine whether there is substantial compliance with this chapter. If the director removes any such health district from the approved list under division (B) of that section, the director shall also remove the health district from the approved list under this division and shall administer and enforce this chapter in the health district until the health district is placed on the approved list under division (B) of section 3734.08 of the Revised Code or division (B)(1) of this section.

(B)(1) Upon the request of the board of health of a health district that is not on the approved list under division (A) or (B) of section 3734.08 of the Revised Code, the director may place the board on the approved list for the purpose of permitting and licensing construction and demolition debris facilities under this chapter if the director determines that the board is both capable of and willing to enforce all of the applicable requirements of this chapter and rules adopted under it.

(2) The director shall annually survey each health district on the approved list under division (B)(1) of this section to determine whether there is substantial compliance with this chapter and rules adopted under it. Upon determining that there is substantial compliance, the director shall place the health district on the approved list under that division. The director shall make a resurvey when in the director's opinion a resurvey is necessary and shall remove from the approved list under division (B) (1) of this section any health district not substantially complying with this chapter and rules adopted under it.

(3) If, after a survey or resurvey is made under division (B)(2) of this section, the director determines that a health district is not eligible to be placed on the approved list or to continue on that list, the director shall certify that fact to the board of health of the health district and shall administer and enforce this chapter and rules adopted under it in the health district until such time as the health district is placed on the approved list.

(4) Whenever the director is required to administer and enforce this chapter in any health district under division (A) or (B)(3) of this section, the director is hereby vested with all of the authority and all the duties granted to or imposed upon a board of health under this chapter and rules adopted under it within the health district. All disposal fees required to be paid to a board of health by section 3714.07 of the Revised Code and all such previous fees paid to the board, together with any money from construction and demolition debris facility license fees that were required to be paid to the board under section 3714.07 of the Revised Code as that section existed prior to April 15, 2005, that have not been expended or encumbered shall be paid to the director and deposited by the director in the state treasury to the credit of the waste management fund created in section 3734.061 of the Revised Code.

(C) Nothing in this chapter limits the authority of the director to initiate and pursue any administrative remedy or to request the attorney general, the prosecuting attorney of the appropriate county, or the city director of law of the appropriate city to initiate and pursue any appropriate judicial remedy available under this chapter to enforce any provision of this chapter and any rules or terms or conditions of any permit or license or order adopted or issued under this chapter with respect to any construction and demolition debris facility regardless of whether the facility is located in a health district that is on the approved list under this section.

**Sec. 3718.03.** (A) There is hereby created the sewage treatment system technical advisory committee consisting of the director of health or the director's designee and thirteen members who are knowledgeable about sewage treatment systems and technologies. The director or the director's designee shall serve as committee secretary and may vote on actions taken by the committee. Of the thirteen members, five shall be appointed by the governor, four shall be appointed by the president of the senate, and four shall be appointed by the speaker of the house of representatives.

(1) Of the members appointed by the governor, one shall represent academia and shall be active in teaching or research in the area of on-site wastewater treatment, one shall be a representative of the public who is not employed by the state or any of its political subdivisions and who does not have a pecuniary interest in sewage treatment systems, one shall be a registered professional engineer employed by the environmental protection agency, one shall be selected from among soil scientists in the division of soil and water conservation in the department of agriculture, and one shall be a representative of a statewide organization representing townships.

(2) Of the members appointed by the president of the senate, one shall be a health commissioner who is a member of and recommended by the association of Ohio health commissioners, one shall represent the interests of manufacturers of sewage treatment systems, one shall represent installers and service providers, and one shall be a person with demonstrated experience in the design of sewage treatment systems.

(3) Of the members appointed by the speaker of the house of representatives, one shall be a health commissioner who is a member of and recommended by the association of Ohio health commissioners, one shall represent the interests of manufacturers of sewage treatment systems, one shall be a sanitarian who is registered under Chapter 4736. of the Revised Code and who is a member of the Ohio environmental health association, and one shall be a registered professional engineer with experience in sewage treatment systems.

(B) Terms of members appointed to the committee shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall serve from the date of appointment until the end of the term for which the member was appointed.

Members may be reappointed. Vacancies shall be filled in the same manner as provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member was appointed shall hold office for the remainder of that term. A member shall continue to serve after the expiration date of the member's term until the member's successor is appointed or until a period of sixty days has elapsed, whichever occurs first. The applicable appointing authority may remove a member from the committee for failure to attend two consecutive meetings without showing good cause for the absences.

(C) The technical advisory committee annually shall select from among its members a

chairperson and a vice-chairperson. The secretary shall keep a record of its proceedings. A majority vote of the members of the full committee is necessary to take action on any matter. The committee may adopt bylaws governing its operation, including bylaws that establish the frequency of meetings.

(D) Serving as a member of the sewage treatment system technical advisory committee does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for removal of public officers or employees from their offices or positions of employment. Members of the committee shall serve without compensation for attending committee meetings.

(E) A member of the committee shall not have a conflict of interest with the position. For the purposes of this division, "conflict of interest" means the taking of any action that violates any provision of Chapter 102. or 2921. of the Revised Code.

(F) The sewage treatment system technical advisory committee shall do all of the following:

(1) Develop with the department of health standards, guidelines, and protocols for approving or disapproving a sewage treatment system or components of a system under section 3718.04 of the Revised Code. Any guideline requiring the submission of scientific information or testing data shall specify, in writing, the protocol and format to be used in submitting the information or data.

(2) Develop with the department an application form to be submitted to the director by an applicant for approval or disapproval of a sewage treatment system or components of a system and specify the information that must be included with an application form;

(3) Make recommendations to the director regarding the approval or disapproval of an application sent to the director under section 3718.04 of the Revised Code requesting approval of a sewage treatment system or components of a system;

(4) Pursue and recruit in an active manner the research, development, introduction, and timely approval of innovative and cost-effective sewage treatment systems and components of a system for use in this state, which shall include conducting pilot projects to assess the effectiveness of a system or components of a system.

(G) The chairperson of the committee shall prepare and submit an annual report concerning the activities of the committee to the general assembly not later than ninety days after the end of the calendar year. The report shall discuss the number of applications submitted under section 3718.04 of the Revised Code for the approval of a new sewage treatment system or a component of a system, the number of such systems and components that were approved, any information that the committee considers beneficial to the general assembly, and any other information that the chairperson determines is beneficial to the general assembly. If other members of the committee determine that certain information should be included in the report, they shall submit the information to the chairperson not later than thirty days after the end of the calendar year.

(H) The department shall provide meeting space for the committee. The committee shall be assisted in its duties by the staff of the department.

(I) Sections 101.82 to 101.87 of the Revised Code do not apply to the sewage treatment system technical advisory committee.

**Sec. 3734.01.** As used in this chapter:

(A) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the

Revised Code.

(B) "Director" means the director of environmental protection.

(C) "Health district" means a city or general health district as created by or under authority of Chapter 3709. of the Revised Code.

(D) "Agency" means the environmental protection agency.

(E) "Solid wastes" means such unwanted residual solid or semisolid material as results from industrial, commercial, agricultural, and community operations, excluding earth or material from construction, mining, or demolition operations, or other waste materials of the type that normally would be included in demolition debris, nontoxic fly ash and bottom ash, including at least ash that results from the combustion of coal and ash that results from the combustion of coal in combination with scrap tires where scrap tires comprise not more than fifty per cent of heat input in any month, spent nontoxic foundry sand, nontoxic, nonhazardous, unwanted fired and unfired, glazed and unglazed, structural products made from shale and clay products, and slag and other substances that are not harmful or inimical to public health, and includes, but is not limited to, garbage, scrap tires, combustible and noncombustible material, street dirt, and debris. "Solid wastes" does not include any material that is an infectious waste or a hazardous waste.

(F) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any solid wastes or hazardous waste into or on any land or ground or surface water or into the air, except if the disposition or placement constitutes storage or treatment or, if the solid wastes consist of scrap tires, the disposition or placement constitutes a beneficial use or occurs at a scrap tire recovery facility licensed under section 3734.81 of the Revised Code.

(G) "Person" includes the state, any political subdivision and other state or local body, the United States and any agency or instrumentality thereof, and any legal entity defined as a person under section 1.59 of the Revised Code.

(H) "Open burning" means the burning of solid wastes in an open area or burning of solid wastes in a type of chamber or vessel that is not approved or authorized in rules adopted by the director under section 3734.02 of the Revised Code or, if the solid wastes consist of scrap tires, in rules adopted under division (V) of this section or section 3734.73 of the Revised Code, or the burning of treated or untreated infectious wastes in an open area or in a type of chamber or vessel that is not approved in rules adopted by the director under section 3734.021 of the Revised Code.

(I) "Open dumping" means the depositing of solid wastes into a body or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code or, if the solid wastes consist of scrap tires, as a scrap tire collection, storage, monocell, monofill, or recovery facility under section 3734.81 of the Revised Code; the depositing of solid wastes that consist of scrap tires onto the surface of the ground at a site or in a manner not specifically identified in divisions (C)(2) to (5), (7), or (10) of section 3734.85 of the Revised Code; the depositing of untreated infectious wastes into a body or stream of water or onto the surface of the ground; or the depositing of treated infectious wastes into a body or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code.

(J) "Hazardous waste" means any waste or combination of wastes in solid, liquid, semisolid, or contained gaseous form that in the determination of the director, because of its quantity,



concentration, or physical or chemical characteristics, may do either of the following:

(1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness;

(2) Pose a substantial present or potential hazard to human health or safety or to the environment when improperly stored, treated, transported, disposed of, or otherwise managed.

"Hazardous waste" includes any substance identified by regulation as hazardous waste under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and does not include any substance that is subject to the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as amended.

(K) "Treat" or "treatment," when used in connection with hazardous waste, means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize the waste; recover energy or material resources from the waste; render the waste nonhazardous or less hazardous, safer to transport, store, or dispose of, or amenable for recovery or storage; or reduce the volume of the waste. When used in connection with infectious wastes, "treat" or "treatment" means any method, technique, or process that renders the wastes noninfectious so that it is no longer an infectious waste and is no longer an infectious substance as defined in applicable federal law, including, without limitation, steam sterilization and incineration, and, in the instance of wastes identified in division (R)(7) of this section, to substantially reduce or eliminate the potential for the wastes to cause lacerations or puncture wounds.

(L) "Manifest" means the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(M) "Storage," when used in connection with hazardous waste, means the holding of hazardous waste for a temporary period in such a manner that it remains retrievable and substantially unchanged physically and chemically and, at the end of the period, is treated; disposed of; stored elsewhere; or reused, recycled, or reclaimed in a beneficial manner. When used in connection with solid wastes that consist of scrap tires, "storage" means the holding of scrap tires for a temporary period in such a manner that they remain retrievable and, at the end of that period, are beneficially used; stored elsewhere; placed in a scrap tire monocell or monofill facility licensed under section 3734.81 of the Revised Code; processed at a scrap tire recovery facility licensed under that section or a solid waste incineration or energy recovery facility subject to regulation under this chapter; or transported to a scrap tire monocell, monofill, or recovery facility, any other solid waste facility authorized to dispose of scrap tires, or a facility that will beneficially use the scrap tires, that is located in another state and is operating in compliance with the laws of the state in which the facility is located.

(N) "Facility" means any site, location, tract of land, installation, or building used for incineration, composting, sanitary landfilling, or other methods of disposal of solid wastes or, if the solid wastes consist of scrap tires, for the collection, storage, or processing of the solid wastes; for the transfer of solid wastes; for the treatment of infectious wastes; or for the storage, treatment, or disposal of hazardous waste.

(O) "Closure" means the time at which a hazardous waste facility will no longer accept

hazardous waste for treatment, storage, or disposal, the time at which a solid waste facility will no longer accept solid wastes for transfer or disposal or, if the solid wastes consist of scrap tires, for storage or processing, or the effective date of an order revoking the permit for a hazardous waste facility or the registration certificate, permit, or license for a solid waste facility, as applicable. "Closure" includes measures performed to protect public health or safety, to prevent air or water pollution, or to make the facility suitable for other uses, if any, including, but not limited to, the removal of processing residues resulting from solid wastes that consist of scrap tires; the establishment and maintenance of a suitable cover of soil and vegetation over cells in which hazardous waste or solid wastes are buried; minimization of erosion, the infiltration of surface water into such cells, the production of leachate, and the accumulation and runoff of contaminated surface water; the final construction of facilities for the collection and treatment of leachate and contaminated surface water runoff, except as otherwise provided in this division; the final construction of air and water quality monitoring facilities, except as otherwise provided in this division; the final construction of methane gas extraction and treatment systems; or the removal and proper disposal of hazardous waste or solid wastes from a facility when necessary to protect public health or safety or to abate or prevent air or water pollution. With regard to a solid waste facility that is a scrap tire facility, "closure" includes the final construction of facilities for the collection and treatment of leachate and contaminated surface water runoff and the final construction of air and water quality monitoring facilities only if those actions are determined to be necessary.

(P) "Premises" means either of the following:

- (1) Geographically contiguous property owned by a generator;
- (2) Noncontiguous property that is owned by a generator and connected by a right-of-way that the generator controls and to which the public does not have access. Two or more pieces of property that are geographically contiguous and divided by public or private right-of-way or rights-of-way are a single premises.

(Q) "Post-closure" means that period of time following closure during which a hazardous waste facility is required to be monitored and maintained under this chapter and rules adopted under it, including, without limitation, operation and maintenance of methane gas extraction and treatment systems, or the period of time after closure during which a scrap tire monocell or monofill facility licensed under section 3734.81 of the Revised Code is required to be monitored and maintained under this chapter and rules adopted under it.

(R) "Infectious wastes" means any wastes or combination of wastes that include cultures and stocks of infectious agents and associated biologicals, human blood and blood products, and substances that were or are likely to have been exposed to or contaminated with or are likely to transmit an infectious agent or zoonotic agent, including all of the following:

- (1) Laboratory wastes;
- (2) Pathological wastes;
- (3) Animal blood and blood products;
- (4) Animal carcasses and parts;
- (5) Waste materials from the rooms of humans, or the enclosures of animals, that have been isolated because of diagnosed communicable disease that are likely to transmit infectious agents. Such waste materials from the rooms of humans do not include any wastes of patients who have been

placed on blood and body fluid precautions under the universal precaution system established by the centers for disease control in the public health service of the United States department of health and human services, except to the extent specific wastes generated under the universal precautions system have been identified as infectious wastes by rules adopted under division (R)(7) of this section.

(6) Sharp wastes used in the treatment, diagnosis, or inoculation of human beings or animals;

(7) Any other waste materials generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, that the director of health, by rules adopted in accordance with Chapter 119. of the Revised Code, identifies as infectious wastes after determining that the wastes present a substantial threat to human health when improperly managed because they are contaminated with, or are likely to be contaminated with, infectious agents.

As used in this division, "blood products" does not include patient care waste such as bandages or disposable gowns that are lightly soiled with blood or other body fluids unless those wastes are soiled to the extent that the generator of the wastes determines that they should be managed as infectious wastes.

(S) "Infectious agent" means a type of microorganism, pathogen, virus, or proteinaceous infectious particle that can cause or significantly contribute to disease in or death of human beings.

(T) "Zoonotic agent" means a type of microorganism, pathogen, or virus that causes disease in vertebrate animals, is transmissible to human beings, and can cause or significantly contribute to disease in or death of human beings.

(U) "Solid waste transfer facility" means any site, location, tract of land, installation, or building that is used or intended to be used primarily for the purpose of transferring solid wastes that were generated off the premises of the facility from vehicles or containers into other vehicles for transportation to a solid waste disposal facility. "Solid waste transfer facility" does not include any facility that consists solely of portable containers that have an aggregate volume of fifty cubic yards or less nor any facility where legitimate recycling activities are conducted.

(V) "Beneficially use" includes:

(1) With regard to scrap tires, to use a scrap tire in a manner that results in a commodity for sale or exchange or in any other manner authorized as a beneficial use in rules adopted by the director in accordance with Chapter 119. of the Revised Code;

(2) With regard to material from a horizontal well that has come in contact with a refined oil-based substance and that is not technologically enhanced naturally occurring radioactive material, to use the material in any manner authorized as a beneficial use in rules adopted by the director under section 3734.125 of the Revised Code.

(W) "Commercial car," "commercial tractor," "farm machinery," "motor bus," "vehicles," "motor vehicle," and "semitrailer" have the same meanings as in section 4501.01 of the Revised Code.

(X) "Construction equipment" means road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work, or in mining or producing or processing aggregates, and not designed for or used in general highway transportation.

(Y) "Motor vehicle salvage dealer" has the same meaning as in section 4738.01 of the Revised Code.

(Z) "Scrap tire" means an unwanted or discarded tire.

(AA) "Scrap tire collection facility" means any facility that meets all of the following qualifications:

(1) The facility is used for the receipt and storage of whole scrap tires from the public prior to their transportation to a scrap tire storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code; a solid waste incineration or energy recovery facility subject to regulation under this chapter; a premises within the state where the scrap tires will be beneficially used; or a scrap tire storage, monocell, monofill, or recovery facility, any other solid waste disposal facility authorized to dispose of scrap tires, or a facility that will beneficially use the scrap tires, that is located in another state, and that is operating in compliance with the laws of the state in which the facility is located.

(2) The facility exclusively stores scrap tires in portable containers.

(3) The aggregate storage of the portable containers in which the scrap tires are stored does not exceed five thousand cubic feet.

(BB) "Scrap tire monocell facility" means an individual site within a solid waste landfill that is used exclusively for the environmentally sound storage or disposal of whole scrap tires or scrap tires that have been shredded, chipped, or otherwise mechanically processed.

(CC) "Scrap tire monofill facility" means an engineered facility used or intended to be used exclusively for the storage or disposal of scrap tires, including at least facilities for the submergence of whole scrap tires in a body of water.

(DD) "Scrap tire recovery facility" means any facility, or portion thereof, for the processing of scrap tires for the purpose of extracting or producing usable products, materials, or energy from the scrap tires through a controlled combustion process, mechanical process, or chemical process. "Scrap tire recovery facility" includes any facility that uses the controlled combustion of scrap tires in a manufacturing process to produce process heat or steam or any facility that produces usable heat or electric power through the controlled combustion of scrap tires in combination with another fuel, but does not include any solid waste incineration or energy recovery facility that is designed, constructed, and used for the primary purpose of incinerating mixed municipal solid wastes and that burns scrap tires in conjunction with mixed municipal solid wastes, or any tire retreading business, tire manufacturing finishing center, or tire adjustment center having on the premises of the business a single, covered scrap tire storage area at which not more than four thousand scrap tires are stored.

(EE) "Scrap tire storage facility" means any facility where whole scrap tires are stored prior to their transportation to a scrap tire monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code; a solid waste incineration or energy recovery facility subject to regulation under this chapter; a premises within the state where the scrap tires will be beneficially used; or a scrap tire storage, monocell, monofill, or recovery facility, any other solid waste disposal facility authorized to dispose of scrap tires, or a facility that will beneficially use the scrap tires, that is located in another state, and that is operating in compliance with the laws of the state in which the facility is located.

(FF) "Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and, as a result of that use, is contaminated by physical or chemical impurities. "Used oil" includes only those substances identified as used oil by the United States environmental

protection agency under the "Used Oil Recycling Act of 1980," 94 Stat. 2055, 42 U.S.C.A. 6901a, as amended.

(GG) "Accumulated speculatively" has the same meaning as in rules adopted by the director under section 3734.12 of the Revised Code.

(HH) "Horizontal well" has the same meaning as in section 1509.01 of the Revised Code.

(II) "Technologically enhanced naturally occurring radioactive material" has the same meaning as in section 3748.01 of the Revised Code.

**Sec. 3734.02.** (A) The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend, suspend, or rescind rules having uniform application throughout the state governing solid waste facilities and the inspections of and issuance of permits and licenses for all solid waste facilities in order to ensure that the facilities will be located, maintained, and operated, and will undergo closure and post-closure care, in a sanitary manner so as not to create a nuisance, cause or contribute to water pollution, create a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 257.3-8, as amended. The rules may include, without limitation, financial assurance requirements for closure and post-closure care and corrective action and requirements for taking corrective action in the event of the surface or subsurface discharge or migration of explosive gases or leachate from a solid waste facility, or of ground water contamination resulting from the transfer or disposal of solid wastes at a facility, beyond the boundaries of any area within a facility that is operating or is undergoing closure or post-closure care where solid wastes were disposed of or are being disposed of. The rules shall not concern or relate to personnel policies, salaries, wages, fringe benefits, or other conditions of employment of employees of persons owning or operating solid waste facilities. The director, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend, suspend, or rescind rules governing the issuance, modification, revocation, suspension, or denial of variances from the director's solid waste rules, including, without limitation, rules adopted under this chapter governing the management of scrap tires.

Variances shall be issued, modified, revoked, suspended, or rescinded in accordance with this division, rules adopted under it, and Chapter 3745. of the Revised Code. The director may order the person to whom a variance is issued to take such action within such time as the director may determine to be appropriate and reasonable to prevent the creation of a nuisance or a hazard to the public health or safety or the environment. Applications for variances shall contain such detail plans, specifications, and information regarding objectives, procedures, controls, and other pertinent data as the director may require. The director shall grant a variance only if the applicant demonstrates to the director's satisfaction that construction and operation of the solid waste facility in the manner allowed by the variance and any terms or conditions imposed as part of the variance will not create a nuisance or a hazard to the public health or safety or the environment. In granting any variance, the director shall state the specific provision or provisions whose terms are to be varied and also shall state specific terms or conditions imposed upon the applicant in place of the provision or provisions.

The director may hold a public hearing on an application for a variance or renewal of a variance at a location in the county where the operations that are the subject of the application for the variance are conducted. The director shall give not less than twenty days' notice of the hearing to the applicant by certified mail or by another type of mail accompanied by a receipt and shall publish at least one notice of the hearing in a newspaper with general circulation in the county where the

hearing is to be held. The director shall make available for public inspection at the principal office of the environmental protection agency a current list of pending applications for variances and a current schedule of pending variance hearings. The director shall make a complete stenographic record of testimony and other evidence submitted at the hearing.

Within ten days after the hearing, the director shall make a written determination to issue, renew, or deny the variance and shall enter the determination and the basis for it into the record of the hearing. The director shall issue, renew, or deny an application for a variance or renewal of a variance within six months of the date upon which the director receives a complete application with all pertinent information and data required. No variance shall be issued, revoked, modified, or denied until the director has considered the relative interests of the applicant, other persons and property affected by the variance, and the general public. Any variance granted under this division shall be for a period specified by the director and may be renewed from time to time on such terms and for such periods as the director determines to be appropriate. No application shall be denied and no variance shall be revoked or modified without a written order stating the findings upon which the denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or variance holder by certified mail or by another type of mail accompanied by a receipt.

(B) The director shall prescribe and furnish the forms necessary to administer and enforce this chapter. The director may cooperate with and enter into agreements with other state, local, or federal agencies to carry out the purposes of this chapter. The director may exercise all incidental powers necessary to carry out the purposes of this chapter.

(C) Except as provided in this division and divisions (N)(2) and (3) of this section, no person shall establish a new solid waste facility or infectious waste treatment facility, or modify an existing solid waste facility or infectious waste treatment facility, without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation and receiving a permit issued by the director, except that no permit shall be required under this division to install or operate a solid waste facility for sewage sludge treatment or disposal when the treatment or disposal is authorized by a current permit issued under Chapter 3704. or 6111. of the Revised Code.

No person shall continue to operate a solid waste facility for which the director has disapproved plans and specifications required to be filed by an order issued under division (A)(3) of section 3734.05 of the Revised Code, after the date prescribed for commencement of closure of the facility in the order issued under division (A)(4) of that section denying the permit application or approval.

On and after the effective date of the rules adopted under division (A) of this section and division (D) of section 3734.12 of the Revised Code governing solid waste transfer facilities, no person shall establish a new, or modify an existing, solid waste transfer facility without first submitting an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation to the director and receiving a permit issued by the director.

No person shall establish a new compost facility or continue to operate an existing compost facility that accepts exclusively source separated yard wastes without submitting a completed registration for the facility to the director in accordance with rules adopted under divisions (A) and

(N)(3) of this section.

This division does not apply to a generator of infectious wastes that does any of the following:

(1) Treats, by methods, techniques, and practices established by rules adopted under division (B)(2)(a) of section 3734.021 of the Revised Code, any of the following:

(a) Infectious wastes that are generated on any premises that are owned or operated by the generator;

(b) Infectious wastes that are generated by a generator who has staff privileges at a hospital as defined in section 3727.01 of the Revised Code;

(c) Infectious wastes that are generated in providing care to a patient by an emergency medical services organization as defined in section 4765.01 of the Revised Code.

(2) Holds a license or renewal of a license to operate a crematory facility issued under Chapter 4717. and a permit issued under Chapter 3704. of the Revised Code;

(3) Treats or disposes of dead animals or parts thereof, or the blood of animals, and is subject to any of the following:

(a) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended;

(b) Chapter 918. of the Revised Code;

(c) Chapter 953. of the Revised Code.

(D) Neither this chapter nor any rules adopted under it apply to single-family residential premises; to infectious wastes generated by individuals for purposes of their own care or treatment; to the temporary storage of solid wastes, other than scrap tires, prior to their collection for disposal; to the storage of one hundred or fewer scrap tires unless they are stored in such a manner that, in the judgment of the director or the board of health of the health district in which the scrap tires are stored, the storage causes a nuisance, a hazard to public health or safety, or a fire hazard; or to the collection of solid wastes, other than scrap tires, by a political subdivision or a person holding a franchise or license from a political subdivision of the state; to composting, as defined in section 1511.01 of the Revised Code, conducted in accordance with section 1511.022 of the Revised Code; or to any person who is licensed to transport raw rendering material to a compost facility pursuant to section 953.23 of the Revised Code.

(E)(1) As used in this division:

(a) "On-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated on the premises of the facility.

(b) "Off-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated off the premises of the facility and includes such a facility that is also an on-site facility.

(c) "Satellite facility" means any of the following:

(i) An on-site facility that also receives hazardous waste from other premises owned by the same person who generates the waste on the facility premises;

(ii) An off-site facility operated so that all of the hazardous waste it receives is generated on one or more premises owned by the person who owns the facility;

(iii) An on-site facility that also receives hazardous waste that is transported uninterruptedly and directly to the facility through a pipeline from a generator who is not the owner of the facility.

(2) Except as provided in division (E)(3) of this section, no person shall establish or operate a hazardous waste facility, or use a solid waste facility for the storage, treatment, or disposal of any hazardous waste, without a hazardous waste facility installation and operation permit issued in accordance with section 3734.05 of the Revised Code and subject to the payment of an application fee not to exceed one thousand five hundred dollars, payable upon application for a hazardous waste facility installation and operation permit and upon application for a renewal permit issued under division (H) of section 3734.05 of the Revised Code, to be credited to the hazardous waste facility management fund created in section 3734.18 of the Revised Code. The term of a hazardous waste facility installation and operation permit shall not exceed ten years.

In addition to the application fee, there is hereby levied an annual permit fee to be paid by the permit holder upon the anniversaries of the date of issuance of the hazardous waste facility installation and operation permit and of any subsequent renewal permits and to be credited to the hazardous waste facility management fund. Annual permit fees totaling forty thousand dollars or more for any one facility may be paid on a quarterly basis with the first quarterly payment each year being due on the anniversary of the date of issuance of the hazardous waste facility installation and operation permit and of any subsequent renewal permits. The annual permit fee shall be determined for each permit holder by the director in accordance with the following schedule:

## TYPE OF BASIC

MANAGEMENT UNIT	TYPE OF FACILITY	FEE
Storage facility using:		
Containers	On-site, off-site, and	
	satellite	\$500
Tanks	On-site, off-site, and	
	satellite	500
Waste pile	On-site, off-site, and	
	satellite	3,000
Surface impoundment	On-site and satellite	8,000
	Off-site	10,000
Disposal facility using:		
Deep well injection	On-site and satellite	15,000



		953	
	Off-site	25,000	
Landfill	On-site and satellite		25,000
	Off-site	40,000	
Land application	On-site and satellite		2,500
	Off-site	5,000	
Surface impoundment	On-site and satellite		10,000
	Off-site	20,000	
Treatment facility using:			
Tanks	On-site, off-site, and satellite	700	
Surface impoundment	On-site and satellite		8,000
	Off-site	10,000	
Incinerator	On-site and satellite		5,000
	Off-site	10,000	
Other forms			
of treatment	On-site, off-site, and satellite	1,000	

A hazardous waste disposal facility that disposes of hazardous waste by deep well injection and that pays the annual permit fee established in section 6111.046 of the Revised Code is not subject to the permit fee established in this division for disposal facilities using deep well injection unless the director determines that the facility is not in compliance with applicable requirements established under this chapter and rules adopted under it.

In determining the annual permit fee required by this section, the director shall not require additional payments for multiple units of the same method of storage, treatment, or disposal or for individual units that are used for both storage and treatment. A facility using more than one method of storage, treatment, or disposal shall pay the permit fee indicated by the schedule for each such method.

The director shall not require the payment of that portion of an annual permit fee of any

permit holder that would apply to a hazardous waste management unit for which a permit has been issued, but for which construction has not yet commenced. Once construction has commenced, the director shall require the payment of a part of the appropriate fee indicated by the schedule that bears the same relationship to the total fee that the number of days remaining until the next anniversary date at which payment of the annual permit fee is due bears to three hundred sixty-five.

The director, by rules adopted in accordance with Chapters 119. and 3745. of the Revised Code, shall prescribe procedures for collecting the annual permit fee established by this division and may prescribe other requirements necessary to carry out this division.

(3) The prohibition against establishing or operating a hazardous waste facility without a hazardous waste facility installation and operation permit does not apply to either of the following:

(a) A facility that is operating in accordance with a permit renewal issued under division (H) of section 3734.05 of the Revised Code, a revision issued under division (I) of that section as it existed prior to August 20, 1996, or a modification issued by the director under division (I) of that section on and after August 20, 1996;

(b) Except as provided in division (J) of section 3734.05 of the Revised Code, a facility that will operate or is operating in accordance with a permit by rule, or that is not subject to permit requirements, under rules adopted by the director. In accordance with Chapter 119. of the Revised Code, the director shall adopt, and subsequently may amend, suspend, or rescind, rules for the purposes of division (E)(3)(b) of this section. Any rules so adopted shall be consistent with and equivalent to regulations pertaining to interim status adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter.

If a modification is requested or proposed for a facility described in division (E)(3)(a) or (b) of this section, division (I)(7) of section 3734.05 of the Revised Code applies.

(F) No person shall store, treat, or dispose of hazardous waste identified or listed under this chapter and rules adopted under it, regardless of whether generated on or off the premises where the waste is stored, treated, or disposed of, or transport or cause to be transported any hazardous waste identified or listed under this chapter and rules adopted under it to any other premises, except at or to any of the following:

(1) A hazardous waste facility operating under a permit issued in accordance with this chapter;

(2) A facility in another state operating under a license or permit issued in accordance with the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended;

(3) A facility in another nation operating in accordance with the laws of that nation;

(4) A facility holding a permit issued pursuant to Title I of the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 Stat. 1052, 33 U.S.C.A. 1401, as amended;

(5) A hazardous waste facility as described in division (E)(3)(a) or (b) of this section.

(G) The director, by order, may exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes, infectious wastes, or hazardous waste, or processing solid wastes that consist of scrap tires, in such quantities or under such circumstances that, in the determination of the director, are unlikely to adversely affect the public health or safety or the

environment from any requirement to obtain a registration certificate, permit, or license or comply with the manifest system or other requirements of this chapter. Such an exemption shall be consistent with and equivalent to any regulations adopted by the administrator of the United States environmental protection agency under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter.

(H) No person shall engage in filling, grading, excavating, building, drilling, or mining on land where a hazardous waste facility, or a solid waste facility, was operated without prior authorization from the director, who shall establish the procedure for granting such authorization by rules adopted in accordance with Chapter 119. of the Revised Code.

A public utility that has main or distribution lines above or below the land surface located on an easement or right-of-way across land where a solid waste facility was operated may engage in any such activity within the easement or right-of-way without prior authorization from the director for purposes of performing emergency repair or emergency replacement of its lines; of the poles, towers, foundations, or other structures supporting or sustaining any such lines; or of the appurtenances to those structures, necessary to restore or maintain existing public utility service. A public utility may enter upon any such easement or right-of-way without prior authorization from the director for purposes of performing necessary or routine maintenance of those portions of its existing lines; of the existing poles, towers, foundations, or other structures sustaining or supporting its lines; or of the appurtenances to any such supporting or sustaining structure, located on or above the land surface on any such easement or right-of-way. Within twenty-four hours after commencing any such emergency repair, replacement, or maintenance work, the public utility shall notify the director or the director's authorized representative of those activities and shall provide such information regarding those activities as the director or the director's representative may request. Upon completion of the emergency repair, replacement, or maintenance activities, the public utility shall restore any land of the solid waste facility disturbed by those activities to the condition existing prior to the commencement of those activities.

(I) No owner or operator of a hazardous waste facility, in the operation of the facility, shall cause, permit, or allow the emission therefrom of any particulate matter, dust, fumes, gas, mist, smoke, vapor, or odorous substance that, in the opinion of the director, unreasonably interferes with the comfortable enjoyment of life or property by persons living or working in the vicinity of the facility, or that is injurious to public health. Any such action is hereby declared to be a public nuisance.

(J) Notwithstanding any other provision of this chapter, in the event the director finds an imminent and substantial danger to public health or safety or the environment that creates an emergency situation requiring the immediate treatment, storage, or disposal of hazardous waste, the director may issue a temporary emergency permit to allow the treatment, storage, or disposal of the hazardous waste at a facility that is not otherwise authorized by a hazardous waste facility installation and operation permit to treat, store, or dispose of the waste. The emergency permit shall not exceed ninety days in duration and shall not be renewed. The director shall adopt, and may amend, suspend, or rescind, rules in accordance with Chapter 119. of the Revised Code governing the issuance, modification, revocation, and denial of emergency permits.

(K) Except for infectious wastes generated by a person who produces fewer than fifty pounds

of infectious wastes at a premises during any one month, no owner or operator of a sanitary landfill shall knowingly accept for disposal, or dispose of, any infectious wastes that have not been treated to render them noninfectious.

(L) The director, in accordance with Chapter 119. of the Revised Code, shall adopt, and may amend, suspend, or rescind, rules having uniform application throughout the state establishing a training and certification program that shall be required for employees of boards of health who are responsible for enforcing the solid waste and infectious waste provisions of this chapter and rules adopted under them and for persons who are responsible for the operation of solid waste facilities or infectious waste treatment facilities. The rules shall provide all of the following, without limitation:

(1) The program shall be administered by the director and shall consist of a course on new solid waste and infectious waste technologies, enforcement procedures, and rules;

(2) The course shall be offered on an annual basis;

(3) Those persons who are required to take the course under division (L) of this section shall do so triennially;

(4) Persons who successfully complete the course shall be certified by the director;

(5) Certification shall be required for all employees of boards of health who are responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and for all persons who are responsible for the operation of solid waste facilities or infectious waste treatment facilities;

(6)(a) All employees of a board of health who, on the effective date of the rules adopted under this division, are responsible for enforcing the solid waste or infectious waste provisions of this chapter and the rules adopted under them shall complete the course and be certified by the director not later than January 1, 1995;

(b) All employees of a board of health who, after the effective date of the rules adopted under division (L) of this section, become responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and who do not hold a current and valid certification from the director at that time shall complete the course and be certified by the director within two years after becoming responsible for performing those activities.

No person shall fail to obtain the certification required under this division.

(M) The director shall not issue a permit under section 3734.05 of the Revised Code to establish a solid waste facility, or to modify a solid waste facility operating on December 21, 1988, in a manner that expands the disposal capacity or geographic area covered by the facility, that is or is to be located within the boundaries of a state park established or dedicated under Chapter 1546. of the Revised Code, a state park purchase area established under section 1546.06 of the Revised Code, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any candidate area located in this state and identified for potential inclusion in the national park system in the edition of the "national park system plan" submitted under paragraph (b) of section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended, current at the time of filing of the application for the permit, unless the facility or proposed facility is or is to be used exclusively for the disposal of solid wastes generated within the park or recreation area and the director determines that the facility or proposed

facility will not degrade any of the natural or cultural resources of the park or recreation area. The director shall not issue a variance under division (A) of this section and rules adopted under it, or issue an exemption order under division (G) of this section, that would authorize any such establishment or expansion of a solid waste facility within the boundaries of any such park or recreation area, state park purchase area, or candidate area, other than a solid waste facility exclusively for the disposal of solid wastes generated within the park or recreation area when the director determines that the facility will not degrade any of the natural or cultural resources of the park or recreation area.

(N)(1) The rules adopted under division (A) of this section, other than those governing variances, do not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. Those facilities are subject to and governed by rules adopted under sections 3734.70 to 3734.73 of the Revised Code, as applicable.

(2) Division (C) of this section does not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. The establishment and modification of those facilities are subject to sections 3734.75 to 3734.78 and section 3734.81 of the Revised Code, as applicable.

(3) The director may adopt, amend, suspend, or rescind rules under division (A) of this section creating an alternative system for authorizing the establishment, operation, or modification of a solid waste compost facility in lieu of the requirement that a person seeking to establish, operate, or modify a solid waste compost facility apply for and receive a permit under division (C) of this section and section 3734.05 of the Revised Code and a license under division (A)(1) of that section. The rules may include requirements governing, without limitation, the classification of solid waste compost facilities, the submittal of operating records for solid waste compost facilities, and the creation of a registration or notification system in lieu of the issuance of permits and licenses for solid waste compost facilities. The rules shall specify the applicability of divisions (A)(1) and (2)(a) of section 3734.05 of the Revised Code to a solid waste compost facility.

(O)(1) As used in this division, "secondary aluminum waste" means waste material or byproducts, when disposed of, containing aluminum generated from secondary aluminum smelting operations and consisting of dross, salt cake, baghouse dust associated with aluminum recycling furnace operations, or dry-milled wastes.

(2) The owner or operator of a sanitary landfill shall not dispose of municipal solid waste that has been commingled with secondary aluminum waste.

(3) The owner or operator of a sanitary landfill may dispose of secondary aluminum waste, but only in a monocell or monofill that has been permitted for that purpose in accordance with this chapter and rules adopted under it.

(P)(1) As used in divisions (P) and (Q) of this section:

(a) "Natural background" means two picocuries per gram or the actual number of picocuries per gram as measured at an individual solid waste facility, subject to verification by the director of health.

(b) "Drilling operation" includes a production operation as defined in section 1509.01 of the Revised Code.

(2) The owner or operator of a solid waste facility shall not accept for transfer or disposal technologically enhanced naturally occurring radioactive material if that material contains or is

contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations equal to or greater than five picocuries per gram above natural background.

(3) The owner or operator of a solid waste facility may receive and process for purposes other than transfer or disposal technologically enhanced naturally occurring radioactive material that contains or is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations equal to or greater than five picocuries per gram above natural background, provided that the owner or operator has obtained and maintains all other necessary authorizations, including any authorization required by rules adopted by the director of health under section 3748.04 of the Revised Code.

(4) The director of environmental protection may adopt rules in accordance with Chapter 119. of the Revised Code governing the receipt, acceptance, processing, handling, management, and disposal by solid waste facilities of material that contains or is contaminated with radioactive material, including, without limitation, technologically enhanced naturally occurring radioactive material that contains or is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations less than five picocuries per gram above natural background. Rules adopted by the director may include at a minimum both of the following:

(a) Requirements in accordance with which the owner or operator of a solid waste facility must monitor leachate and ground water for radium-226, radium-228, and other radionuclides;

(b) Requirements in accordance with which the owner or operator of a solid waste facility must develop procedures to ensure that technologically enhanced naturally occurring radioactive material accepted at the facility neither contains nor is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations equal to or greater than five picocuries per gram above natural background.

(Q) Notwithstanding any other provision of this section, the owner or operator of a solid waste facility shall not receive, accept, process, handle, manage, or dispose of technologically enhanced naturally occurring radioactive material associated with drilling operations without first obtaining representative analytical results to determine compliance with divisions (P)(2) and (3) of this section and rules adopted under it.

**Sec. 3734.021.** (A) Infectious wastes shall be segregated, managed, treated, and disposed of in accordance with rules adopted under this section.

(B) The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary or appropriate to protect human health or safety or the environment that do both of the following:

(1) Establish standards for generators of infectious wastes that include, without limitation, the following requirements and authorizations that:

(a) All generators of infectious wastes:

(i) Either treat all specimen cultures and cultures of viable infectious agents on the premises where they are generated to render them noninfectious by methods, techniques, or practices prescribed by rules adopted under division (B)(2)(a) of this section before they are transported off that premises for disposal or ensure that such wastes are treated to render them noninfectious at an infectious waste treatment facility off that premises prior to disposal of the wastes;

(ii) Transport and dispose of infectious wastes, if a generator produces fewer than fifty

pounds of infectious wastes during any one month that are subject to and packaged and labeled in accordance with federal requirements, in the same manner as solid wastes. Such generators who treat specimen cultures and cultures of viable infectious agents on the premises where they are generated shall not be considered treatment facilities as "treatment" and "facility" are defined in section 3734.01 of the Revised Code.

(iii) Dispose of infectious wastes subject to and treated in accordance with rules adopted under division (B)(1)(a)(i) of this section in the same manner as solid wastes;

(iv) May take wastes generated in providing care to a patient by an emergency medical services organization, as defined in section 4765.01 of the Revised Code, to and leave them at a hospital, as defined in section 3727.01 of the Revised Code, for treatment at a treatment facility owned or operated by the hospital or, in conjunction with infectious wastes generated by the hospital, at another treatment facility regardless of whether the wastes were generated in providing care to the patient at the scene of an emergency or during the transportation of the patient to a hospital;

(v) May take wastes generated by an individual for purposes of the individual's own care or treatment to and leave them at a hospital, as defined in section 3727.01 of the Revised Code, for treatment at a treatment facility owned or operated by the hospital or, in conjunction with infectious wastes generated by the hospital, at another treatment facility.

(b) Each generator of fifty pounds or more of infectious wastes during any one month:

(i) Register with the environmental protection agency as a generator of infectious wastes and obtain a registration certificate. The fee for issuance of a generator registration certificate is one hundred forty dollars payable at the time of application. The registration certificate applies to all the premises owned or operated by the generator in this state where infectious wastes are generated and shall list the address of each such premises. If a generator owns or operates facilities for the treatment of infectious wastes it generates, the certificate shall list the address and method of treatment used at each such facility.

A generator registration certificate is valid for three years from the date of issuance and shall be renewed for a term of three years upon the generator's submission of an application for renewal and payment of a one hundred forty dollar renewal fee.

The rules may establish a system of staggered renewal dates with approximately one-third of such certificates subject to renewal each year. The applicable renewal date shall be prescribed on each registration certificate. Registration fees shall be prorated according to the time remaining in the registration cycle to the nearest year.

The registration and renewal fees collected under division (B)(1)(b)(i) of this section shall be deposited in the state treasury to the credit of the waste management fund created in section 3734.061 of the Revised Code.

(ii) Segregate infectious wastes from other wastes at the point of generation. Nothing in this section and rules adopted under it prohibits a generator of infectious wastes from designating and managing any wastes, in addition to those defined as infectious wastes under section 3734.01 of the Revised Code, as infectious wastes. After designating any such other wastes as infectious, the generator shall manage those wastes in compliance with the requirements of this chapter and rules adopted under it applicable to the management of infectious wastes.

(iii) Either treat the infectious wastes that it generates at a facility owned or operated by the

generator by methods, techniques, or practices prescribed by rules adopted under division (B)(2)(a) of this section to render them noninfectious, or designate the wastes for treatment off that premises at an infectious waste treatment facility holding a license issued under division (B) of section 3734.05 of the Revised Code, at an infectious waste treatment facility that is located in another state that is in compliance with applicable state and federal laws, or at a treatment facility authorized by rules adopted under division (B)(2)(d) of this section, prior to disposal of the wastes. After being treated to render them noninfectious, the wastes shall be disposed of at a solid waste disposal facility holding a license issued under division (A) of section 3734.05 of the Revised Code or at a disposal facility in another state that is in compliance with applicable state and federal laws.

(iv) Not compact or grind any type of infectious wastes prior to treatment in accordance with rules adopted under division (B)(2)(a) of this section;

(v) May discharge untreated liquid or semiliquid infectious wastes consisting of blood, blood products, body fluids, and excreta into a disposal system, as defined in section 6111.01 of the Revised Code, unless the discharge of those wastes into a disposal system is inconsistent with the terms and conditions of the permit for the system issued under Chapter 6111. of the Revised Code;

(vi) May transport or cause to be transported infectious wastes that have been treated to render them noninfectious in the same manner as solid wastes are transported.

(2) Establish standards for owners and operators of infectious waste treatment facilities that include, without limitation, the following requirements and authorizations that:

(a) Require treatment of all wastes received to be performed in accordance with methods, techniques, and practices approved by the director;

(b) Govern the location, design, construction, and operation of infectious waste treatment facilities. The rules adopted under division (B)(2)(b) of this section shall require that a new infectious waste incineration facility be located so that the incinerator unit and all areas where infectious wastes are handled on the premises where the facility is proposed to be located are at least three hundred feet inside the property line of the tract of land on which the facility is proposed to be located and are at least one thousand feet from any domicile, school, prison, or jail that is in existence on the date on which the application for the permit to establish the incinerator is submitted under division (B)(2)(b) of section 3734.05 of the Revised Code.

(c) Establish quality control and testing procedures to ensure compliance with the rules adopted under division (B)(2)(b) of this section;

(d) Authorize infectious wastes to be treated at a facility that holds a license or renewal of a license to operate a crematory facility issued under Chapter 4717., and a permit issued under Chapter 3704., of the Revised Code to the extent that the treatment of those wastes is consistent with that permit and its terms and conditions. The rules adopted under divisions (B)(2)(b) and (c) of this section do not apply to a facility holding such a license and permit.

In adopting the rules required by divisions (B)(2)(a) to (d) of this section, the director shall consider and, to the maximum feasible extent, utilize existing standards and guidelines established by professional and governmental organizations having expertise in the fields of infection control and infectious wastes management.

(e) Require shipping papers to accompany shipments of wastes that have been treated to render them noninfectious. The shipping papers shall include only the following elements:



(i) The name of the owner or operator of the facility where the wastes were treated and the address of the treatment facility;

(ii) A certification by the owner or operator of the treatment facility where the wastes were treated indicating that the wastes have been treated by the methods, techniques, and practices prescribed in rules adopted under division (B)(2)(a) of this section.

(C) This section and rules adopted under it do not apply to the treatment or disposal of wastes consisting of dead animals or parts thereof, or the blood of animals:

(1) By the owner of the animal after slaughter by the owner on the owner's premises to obtain meat for consumption by the owner and the members of the owner's household;

(2) In accordance with Chapter 941. of the Revised Code; or

(3) By persons who are subject to any of the following:

(a) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended;

(b) Chapter 918. of the Revised Code;

(c) Chapter 953. of the Revised Code.

(D) As used in this section, "generator" means a person who produces infectious wastes at a specific premises.

(E) Rules adopted under this section shall not concern or relate to personnel policies, salaries, wages, fringe benefits, or other conditions of employment of employees of persons owning or operating infectious waste treatment facilities.

(F)(1) The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules governing the issuance, modification, revocation, suspension, and denial of variances from the rules adopted under division (B) of this section. Variances shall be issued, modified, revoked, suspended, or denied in accordance with division (F) of this section, rules adopted under it, and Chapter 3745. of the Revised Code.

(2) A person who desires to obtain a variance or renew a variance from the rules adopted under division (B) of this section shall submit to the director an application as prescribed by the director. The application shall contain detail plans, specifications, and information regarding objectives, procedures, controls, and any other information that the director may require. The director shall issue, renew, or deny a variance or renewal of a variance within six months of the date on which the director receives a complete application with all required information and data.

(3) The director may hold a public hearing on an application submitted under division (F) of this section for a variance at a location in the county in which the operations that are the subject of the application for a variance or renewal of variance are conducted. Not less than twenty days before the hearing, the director shall provide to the applicant notice of the hearing by certified mail or by another type of mail that is accompanied by a receipt and shall publish notice of the hearing at least one time in a newspaper of general circulation in the county in which the hearing is to be held. The director shall make a complete stenographic record of testimony and other evidence submitted at the hearing. Not later than ten days after the hearing, the director shall make a written determination to issue, renew, or deny the variance and shall enter the determination and the basis for it into the record of the hearing.

(4) A variance shall not be issued, modified, revoked, or denied under division (F) of this

section until the director has considered the relative interests of the applicant, other persons and property that will be affected by the variance, and the general public. The director shall grant a variance only if the applicant demonstrates to the director's satisfaction that the requested action will not create a nuisance or a hazard to the health or safety of the public or to the environment. In granting a variance, the director shall state the specific provision or provisions whose terms are to be varied and also shall state specific terms or conditions imposed on the applicant in place of the provision or provisions.

(5) A variance granted under division (F) of this section shall be for a period specified by the director and may be renewed from time to time on terms and for periods that the director determines to be appropriate. The director may order the person to whom a variance has been issued to take action within the time that the director determines to be appropriate and reasonable to prevent the creation of a nuisance or a hazard to the health or safety of the public or to the environment.

(6) An application submitted under division (F) of this section shall not be denied and a variance shall not be revoked or modified under that division without a written order of the director stating the findings on which the denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or holder of a variance by certified mail or by another type of mail that is accompanied by a receipt.

(7) The director shall make available for public inspection at the principal office of the environmental protection agency a current list of pending applications for variances submitted under division (F) of this section and a current schedule of pending variance hearings under it.

**Sec. 3734.029.** (A)(1) Except as otherwise provided in division (A)(2) of this section, the standards of quality for compost products established in rules adopted under division (A) of section 3734.028 of the Revised Code apply to compost products produced by a facility composting dead animals that is subject to section 939.04 of the Revised Code in addition to compost products produced by facilities subject to this chapter.

(2) The standards of quality established in rules adopted under division (A) of section 3734.028 of the Revised Code do not apply to the use, distribution for use, or giving away of the compost products produced by a composting facility subject to section 939.04 of the Revised Code when either of the following applies:

(a) The composting is conducted by the person who raises the animals and the compost product is used in agricultural operations owned or operated by that person, regardless of whether the person owns the animals;

(b) The composting is conducted by the person who owns the animals, but does not raise them and the compost product is used in agricultural operations either by a person who raises the animals or by a person who raises grain that is used to feed them and that is supplied by the owner of the animals.

(B) No owner or operator of a composting facility that is subject to regulation under section 939.04 of the Revised Code shall sell or offer for sale at retail or wholesale, distribute for use, or give away any compost product that does not comply with the standard of quality applicable under division (A) of this section for the use for which the product is being sold, offered for sale, distributed, or given away.

No person shall violate this division.

**Sec. 3734.061.**

**Sec. 3734.07.** (A) Before a license is initially issued and annually thereafter, or more often if necessary, the board of health shall cause each solid waste facility and infectious waste treatment facility to be inspected and a record to be made of each inspection and shall require each solid waste facility and infectious waste treatment facility in the health district to be in substantial compliance with this chapter and the rules adopted under it.

(B) Within thirty days after the issuance of a license, the board of health shall certify to the director of environmental protection that the solid waste facility or infectious waste treatment facility has been inspected and is in substantial compliance with this chapter and the rules adopted under it. Each board of health shall provide the director with such other information as he may require from time to time.

(C) The board of health or its authorized representative and the director or the director's authorized representative, upon proper identification and upon stating the purpose and necessity of an inspection, may enter at reasonable times upon any private or public property, real or personal, to inspect or investigate, obtain samples, and examine or copy any records to determine compliance with this chapter and the rules adopted under it. The board of health or its authorized representative or the director or the director's authorized representative may apply for, and any judge of a court of record may issue, an appropriate search warrant necessary to achieve the purposes of this chapter and the rules adopted under it within the court's territorial jurisdiction. If entry is refused or inspection or investigation is refused, hindered, or thwarted, the board of health may suspend or revoke the operating license of the solid waste facility or infectious waste treatment facility that refused entry, or the director may suspend or revoke the license or permit of the solid waste facility, hazardous waste facility, or infectious waste treatment facility that refused entry.

(D) If the entry authorized by division (C) of this section is refused or if the inspection or investigation so authorized is refused, hindered, or thwarted by intimidation or otherwise and the director, board of health, or authorized representative of either applies for and obtains a search warrant under division (C) of this section to conduct the inspection or investigation, the owner or operator of the premises where entry was refused or inspection or investigation was refused, hindered, or thwarted is liable to the director or board of health for the reasonable costs incurred by either for the regular salaries and fringe benefit costs of personnel assigned to conduct the inspection or investigation from the time the entry, inspection, or investigation was refused, hindered, or thwarted until the search warrant is executed; for the salary, fringe benefits, and travel expenses of the attorney general, prosecuting attorney of the county, or city director of law, or an authorized assistant, incurred in obtaining the search warrant; and for expenses necessarily incurred for the assistance of local law enforcement officers in executing the search warrant. In the application for the search warrant, the director or board of health may request and the court, in its order granting the search warrant, may order the owner or operator of the premises to reimburse the director or board of health for such of those costs as the court finds reasonable.

From moneys recovered under this division, the director shall reimburse the attorney general for the costs incurred by the attorney general or the attorney general's authorized assistant in connection with proceedings for obtaining the search warrant; shall reimburse the political subdivision in which the premises is located for the assistance of its law enforcement officers in

executing the search warrant; and shall deposit the remainder of any such moneys to the credit of the following, as applicable:

(1) The hazardous waste facility management fund created in section 3734.18 of the Revised Code if the inspection or investigation pertained to compliance with the hazardous waste provisions of this chapter or a rule, order, or term or condition of a permit adopted or issued under them or with a rule adopted under section 3734.121 of the Revised Code;

(2) The general revenue fund if the inspection or investigation pertained to compliance with the solid waste provisions of this chapter or rules, orders, or terms and conditions of a permit, license, or variance adopted or issued under them, other than the provisions governing solid wastes that consist of scrap tires;

(3) The scrap tire management fund created in section 3734.82 of the Revised Code if the inspection or investigation pertained to compliance with the provisions of this chapter governing solid wastes that consist of scrap tires or rules, orders, or terms and conditions of a permit, license, or variance adopted or issued under them;

(4) The waste management fund created in section 3734.061 of the Revised Code if the inspection or investigation pertained to compliance with the infectious waste provisions of this chapter or rules, orders, or terms and conditions of a permit or license issued under them.

From moneys recovered under this division, the board of health shall reimburse the prosecuting attorney of the county or city director of law for the costs incurred by the prosecuting attorney or city director of law or an authorized assistant in connection with proceedings for obtaining the search warrant; shall reimburse the political subdivision in which the premises is located for the assistance of its law enforcement officers in executing the search warrant; and shall deposit the remainder of any such moneys to the special infectious waste fund of the health district created under division (C) of section 3734.06 of the Revised Code if the inspection or investigation pertained to compliance with the infectious waste provisions of this chapter or rules, orders, or terms and conditions of a permit or license issued under them; to the credit of the special fund of the health district created under division (B) of section 3734.06 of the Revised Code if the inspection or investigation pertained to compliance with the solid waste provisions of this chapter or rules, orders, or terms and conditions of a permit, license, or variance adopted or issued under them, other than the provisions governing solid wastes that consist of scrap tires; or to the credit of the special fund of the health district created under division (F) of section 3734.82 of the Revised Code if the inspection or investigation pertained to compliance with the provisions of this chapter governing solid wastes that consist of scrap tires or rules, orders, or terms and conditions of a permit, license, or variance adopted or issued under them.

**Sec. 3734.49.**

**Sec. 3734.50.** The director of environmental protection, with the advice of the materials management advisory council created in section 3734.49 of the Revised Code, shall prepare a state solid waste management plan to do all of the following:

- (A) Reduce reliance on the use of landfills for management of solid wastes;
- (B) Establish objectives for solid waste reduction, recycling, reuse, and minimization and a schedule for implementing those objectives;
- (C) Establish restrictions on the types of solid wastes disposed of by landfilling for which

alternative management methods are available, such as yard wastes, and a schedule for implementing those restrictions. The objectives under division (B) of this section and restrictions under this division need not be of uniform application throughout the state or as to categories of solid waste generators. Rather, in establishing those objectives and restrictions, the director shall take into consideration the feasibility of waste reduction, recycling, reuse, and minimization measures and landfilling restrictions in urban, suburban, and rural areas and also shall take into consideration the extent to which those measures have been implemented by specific categories of solid waste generators and political subdivisions prior to June 24, 1988.

(D) Establish revised general criteria for the location of solid waste facilities;

(E) Examine alternative methods for disposal of fly ash and bottom ash resulting from the burning of mixed municipal solid wastes;

(F) Establish a statewide strategy for managing scrap tires, which shall include identification of locations within the state that qualify as scrap tire facilities and accumulations. In developing the strategy, the director shall examine the feasibility of recycling or recovering materials or energy from scrap tires and landfilling scrap tires in abandoned coal strip mines as well as other methods for managing scrap tires.

(G) Establish a strategy that contains specific recommendations for legislative and administrative action to promote markets for products containing recycled materials generally and for promoting the use by state government of products containing recycled materials;

(H) Establish a program for the proper separation and disposal of hazardous waste generated by households.

The director shall adopt the state solid waste management plan within one year after June 24, 1988. After completion of a draft plan, the director shall hold a public hearing on the draft plan at each of five different locations within the state. After receiving public comments on the draft plan, the director may make such revisions to it as the director considers appropriate based on the comments received and shall submit the draft plan with any revisions to the advisory council for approval. If the advisory council approves the draft plan, the director shall adopt it as the state solid waste management plan. If the advisory council disapproves the draft plan, the director, with the advice of the advisory council, shall prepare a new draft plan and proceed in the same manner as for the initial draft plan to hold hearings on, revise, and submit the new draft plan to the advisory council for approval, and adopt the new draft plan.

Not later than one year after adoption of the plan, the director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing the objectives and restrictions of the state plan, and schedules for implementing them, under divisions (B) and (C) of this section as mandatory elements of the solid waste management plans of county and joint solid waste management districts under division (A) of section 3734.53 of the Revised Code. Within one year after adoption of the plan, the director shall adopt rules in accordance with Chapter 119. of the Revised Code, which rules are hereby deemed to constitute rules adopted under division (A) of section 3734.02 of the Revised Code, establishing revised general location criteria for solid waste facilities, other than solid waste transfer facilities, and standards for the disposal of fly ash and bottom ash resulting from the burning of mixed municipal solid waste.

Triennially the director, with the advice of the advisory council, shall conduct a thorough

review of the progress made toward achieving the goals set forth in divisions (A) to (H) of this section. Based upon the findings of the review, the director, in accordance with the procedures of this section, may prepare and adopt a revised state solid waste management plan. If the revised plan modifies any of the objectives, restrictions, or implementation schedules established under division (B) or (C) of this section, the director, not later than one year after adoption of the revised plan, shall amend the existing rules adopted under this section in a manner consistent with those revisions.

If any revision to the plan or enactment or amendment of a statute by the general assembly that takes effect on or after April 16, 1993, establishes a restriction on the landfilling or burning or other thermal processing in an incinerator or energy recovery facility of any type of solid waste with mixed municipal solid waste, or prescribes for a type of solid waste a management method alternative to landfilling or thermal processing with mixed municipal solid waste, the estimated reduction in the quantity of solid wastes being disposed of by landfilling or thermal processing that results from the implementation of the restriction or alternative management method within a county or joint solid waste management district constitutes a reduction in solid waste generation within the district for purposes of determining the district's compliance with the waste reduction objective established under division (C) of this section and any revisions thereof and the rules and amendments thereto adopted under this section to implement that objective.

**Sec. 3734.551.** (A) The board of county commissioners of a county or board of directors of a joint solid waste management district that is ordered to implement an initial or amended solid waste management plan prepared by the director of environmental protection under section 3734.521, 3734.55, or 3734.56 of the Revised Code and that is levying fees under division (A) or (B) of section 3734.574 of the Revised Code shall reimburse the director from moneys in the special fund of the district created in division (G) of section 3734.57 of the Revised Code for the expenses incurred by the director in preparing and ordering the implementation of the plan or amended plan for all of the following purposes, as applicable:

- (1) Postage;
- (2) Copying and duplicating;
- (3) Notices published in newspapers;
- (4) A court reporter to record testimony at public hearings and transcribe the record of those hearings;
- (5) Facility rental for holding public information sessions or public hearings;
- (6) Conducting a survey of industrial solid waste generators within the district and other primary data collection activities when the necessary data are not available from the district, including, without limitation, the costs of conducting the survey or data collection by contract;
- (7) Fuel, meals, and lodging for the staff of the environmental protection agency when travel to the district is necessary to conduct data collection and other plan preparation activities;
- (8) Necessary long-distance telephone calls.

(B) Upon ordering a district to implement a plan or amended plan under section 3734.521, 3734.55, or 3734.56 of the Revised Code, the director shall send to the board of county commissioners or directors an itemized demand for the expenses enumerated in division (A) of this section that were incurred by the director in preparing and ordering the implementation of the plan or amended plan. The board of county commissioners or directors shall pay to the director the amount

stated in the demand within sixty days after receiving it. Moneys received by the director under this division shall be deposited in the state treasury to the credit of the waste management fund created in section 3734.061 of the Revised Code.

**Sec. 3734.57.** (A) The following fees are hereby levied on the transfer or disposal of solid wastes in this state:

(1) Ninety cents per ton through June 30, 2020, twenty cents of the proceeds of which shall be deposited in the state treasury to the credit of the hazardous waste facility management fund created in section 3734.18 of the Revised Code and seventy cents of the proceeds of which shall be deposited in the state treasury to the credit of the hazardous waste clean-up fund created in section 3734.28 of the Revised Code;

(2) An additional seventy-five cents per ton through June 30, 2020, the proceeds of which shall be deposited in the state treasury to the credit of the waste management fund created in section 3734.061 of the Revised Code.

(3) An additional two dollars and eighty-five cents per ton through June 30, 2020, the proceeds of which shall be deposited in the state treasury to the credit of the environmental protection fund created in section 3745.015 of the Revised Code;

(4) An additional twenty-five cents per ton through June 30, 2020, the proceeds of which shall be deposited in the state treasury to the credit of the soil and water conservation district assistance fund created in section 940.15 of the Revised Code.

In the case of solid wastes that are taken to a solid waste transfer facility located in this state prior to being transported for disposal at a solid waste disposal facility located in this state or outside of this state, the fees levied under this division shall be collected by the owner or operator of the transfer facility as a trustee for the state. The amount of fees required to be collected under this division at such a transfer facility shall equal the total tonnage of solid wastes received at the facility multiplied by the fees levied under this division. In the case of solid wastes that are not taken to a solid waste transfer facility located in this state prior to being transported to a solid waste disposal facility, the fees shall be collected by the owner or operator of the solid waste disposal facility as a trustee for the state. The amount of fees required to be collected under this division at such a disposal facility shall equal the total tonnage of solid wastes received at the facility that was not previously taken to a solid waste transfer facility located in this state multiplied by the fees levied under this division. Fees levied under this division do not apply to materials separated from a mixed waste stream for recycling by a generator or materials removed from the solid waste stream through recycling, as "recycling" is defined in rules adopted under section 3734.02 of the Revised Code.

The owner or operator of a solid waste transfer facility or disposal facility, as applicable, shall prepare and file with the director of environmental protection each month a return indicating the total tonnage of solid wastes received at the facility during that month and the total amount of the fees required to be collected under this division during that month. In addition, the owner or operator of a solid waste disposal facility shall indicate on the return the total tonnage of solid wastes received from transfer facilities located in this state during that month for which the fees were required to be collected by the transfer facilities. The monthly returns shall be filed on a form prescribed by the director. Not later than thirty days after the last day of the month to which a return applies, the owner or operator shall mail to the director the return for that month together with the fees required to be

collected under this division during that month as indicated on the return or may submit the return and fees electronically in a manner approved by the director. If the return is filed and the amount of the fees due is paid in a timely manner as required in this division, the owner or operator may retain a discount of three-fourths of one per cent of the total amount of the fees that are required to be paid as indicated on the return.

The owner or operator may request an extension of not more than thirty days for filing the return and remitting the fees, provided that the owner or operator has submitted such a request in writing to the director together with a detailed description of why the extension is requested, the director has received the request not later than the day on which the return is required to be filed, and the director has approved the request. If the fees are not remitted within thirty days after the last day of the month to which the return applies or are not remitted by the last day of an extension approved by the director, the owner or operator shall not retain the three-fourths of one per cent discount and shall pay an additional ten per cent of the amount of the fees for each month that they are late. For purposes of calculating the late fee, the first month in which fees are late begins on the first day after the deadline has passed for timely submitting the return and fees, and one additional month shall be counted every thirty days thereafter.

The owner or operator of a solid waste facility may request a refund or credit of fees levied under this division and remitted to the director that have not been paid to the owner or operator. Such a request shall be made only if the fees have not been collected by the owner or operator, have become a debt that has become worthless or uncollectable for a period of six months or more, and may be claimed as a deduction, including a deduction claimed if the owner or operator keeps accounts on an accrual basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 U.S.C. 166, as amended, and regulations adopted under it. Prior to making a request for a refund or credit, an owner or operator shall make reasonable efforts to collect the applicable fees. A request for a refund or credit shall not include any costs resulting from those efforts to collect unpaid fees.

A request for a refund or credit of fees shall be made in writing, on a form prescribed by the director, and shall be supported by evidence that may be required in rules adopted by the director under this chapter. After reviewing the request, and if the request and evidence submitted with the request indicate that a refund or credit is warranted, the director shall grant a refund to the owner or operator or shall permit a credit to be taken by the owner or operator on a subsequent monthly return submitted by the owner or operator. The amount of a refund or credit shall not exceed an amount that is equal to ninety days' worth of fees owed to an owner or operator by a particular debtor of the owner or operator. A refund or credit shall not be granted by the director to an owner or operator more than once in any twelve-month period for fees owed to the owner or operator by a particular debtor.

If, after receiving a refund or credit from the director, an owner or operator receives payment of all or part of the fees, the owner or operator shall remit the fees with the next monthly return submitted to the director together with a written explanation of the reason for the submittal.

For purposes of computing the fees levied under this division or division (B) of this section, any solid waste transfer or disposal facility that does not use scales as a means of determining gate receipts shall use a conversion factor of three cubic yards per ton of solid waste or one cubic yard per ton for baled waste, as applicable.



The fees levied under this division and divisions (B) and (C) of this section are in addition to all other applicable fees and taxes and shall be paid by the customer or a political subdivision to the owner or operator of a solid waste transfer or disposal facility. In the alternative, the fees shall be paid by a customer or political subdivision to a transporter of waste who subsequently transfers the fees to the owner or operator of such a facility. The fees shall be paid notwithstanding the existence of any provision in a contract that the customer or a political subdivision may have with the owner or operator or with a transporter of waste to the facility that would not require or allow such payment regardless of whether the contract was entered prior to or after October 16, 2009. For those purposes, "customer" means a person who contracts with, or utilizes the solid waste services of, the owner or operator of a solid waste transfer or disposal facility or a transporter of solid waste to such a facility.

(B) For the purposes specified in division (G) of this section, the solid waste management policy committee of a county or joint solid waste management district may levy fees upon the following activities:

(1) The disposal at a solid waste disposal facility located in the district of solid wastes generated within the district;

(2) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of the district, but inside this state;

(3) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of this state.

The solid waste management plan of the county or joint district approved under section 3734.521 or 3734.55 of the Revised Code and any amendments to it, or the resolution adopted under this division, as appropriate, shall establish the rates of the fees levied under divisions (B)(1), (2), and (3) of this section, if any, and shall specify whether the fees are levied on the basis of tons or cubic yards as the unit of measurement. A solid waste management district that levies fees under this division on the basis of cubic yards shall do so in accordance with division (A) of this section.

The fee levied under division (B)(1) of this section shall be not less than one dollar per ton nor more than two dollars per ton, the fee levied under division (B)(2) of this section shall be not less than two dollars per ton nor more than four dollars per ton, and the fee levied under division (B)(3) of this section shall be not more than the fee levied under division (B)(1) of this section.

Prior to the approval of the solid waste management plan of a district under section 3734.55 of the Revised Code, the solid waste management policy committee of a district may levy fees under this division by adopting a resolution establishing the proposed amount of the fees. Upon adopting the resolution, the committee shall deliver a copy of the resolution to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district and shall prepare and publish the resolution and a notice of the time and location where a public hearing on the fees will be held. Upon adopting the resolution, the committee shall deliver written notice of the adoption of the resolution; of the amount of the proposed fees; and of the date, time, and location of the public hearing to the director and to the fifty industrial, commercial, or institutional generators of solid wastes within the district that generate the largest quantities of solid wastes, as determined by the committee, and to their local trade associations. The committee shall make good faith efforts to identify those generators within the district and their local trade associations, but the nonprovision of notice under

this division to a particular generator or local trade association does not invalidate the proceedings under this division. The publication shall occur at least thirty days before the hearing. After the hearing, the committee may make such revisions to the proposed fees as it considers appropriate and thereafter, by resolution, shall adopt the revised fee schedule. Upon adopting the revised fee schedule, the committee shall deliver a copy of the resolution doing so to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district. Within sixty days after the delivery of a copy of the resolution adopting the proposed revised fees by the policy committee, each such board and legislative authority, by ordinance or resolution, shall approve or disapprove the revised fees and deliver a copy of the ordinance or resolution to the committee. If any such board or legislative authority fails to adopt and deliver to the policy committee an ordinance or resolution approving or disapproving the revised fees within sixty days after the policy committee delivered its resolution adopting the proposed revised fees, it shall be conclusively presumed that the board or legislative authority has approved the proposed revised fees. The committee shall determine if the resolution has been ratified in the same manner in which it determines if a draft solid waste management plan has been ratified under division (B) of section 3734.55 of the Revised Code.

The committee may amend the schedule of fees levied pursuant to a resolution adopted and ratified under this division by adopting a resolution establishing the proposed amount of the amended fees. The committee may repeal the fees levied pursuant to such a resolution by adopting a resolution proposing to repeal them. Upon adopting such a resolution, the committee shall proceed to obtain ratification of the resolution in accordance with this division.

Not later than fourteen days after declaring the new fees to be ratified or the fees to be repealed under this division, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the ratification and the amount of the fees or of the repeal of the fees. Collection of any fees shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

Fees levied under this division also may be established, amended, or repealed by a solid waste management policy committee through the adoption of a new district solid waste management plan, the adoption of an amended plan, or the amendment of the plan or amended plan in accordance with sections 3734.55 and 3734.56 of the Revised Code or the adoption or amendment of a district plan in connection with a change in district composition under section 3734.521 of the Revised Code.

Not later than fourteen days after the director issues an order approving a district's solid waste management plan, amended plan, or amendment to a plan or amended plan that establishes, amends, or repeals a schedule of fees levied by the district, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the approval of the plan or amended plan, or the amendment to the plan, as appropriate, and the amount of the fees, if any. In the case of an initial or amended plan approved under section 3734.521 of the Revised Code in connection with a change in district composition, other than one involving the withdrawal of a county from a joint district, the committee, within fourteen days after the change takes effect pursuant to division (G) of that section, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees that the change has

taken effect and of the amount of the fees, if any. Collection of any fees shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code, as appropriate, forty-five days or more before the beginning of a calendar year, the policy committee of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change, within fourteen days after the director's completion of the required actions, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the issuance of the notice and of the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the repeal of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended plan shall commence on the first day of January immediately following the issuance of the notice. If such an initial or amended plan repeals a schedule of fees, collection of the fees shall cease on that first day of January.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code, as appropriate, less than forty-five days before the beginning of a calendar year, the director, on behalf of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change proceedings, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the mailing of the notice and of the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the repeal of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended plan shall commence on the first day of the second month following the month in which notification is sent to the owner or operator. If such an initial or amended plan repeals a schedule of fees, collection of the fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

If the schedule of fees that a solid waste management district is levying under divisions (B) (1) to (3) of this section is amended or repealed, the fees in effect immediately prior to the amendment or repeal shall continue to be collected until collection of the amended fees commences or collection of the repealed fees ceases, as applicable, as specified in this division. In the case of a change in district composition, money so received from the collection of the fees of the former districts shall be divided among the resulting districts in accordance with division (B) of section 343.012 of the Revised Code and the agreements entered into under division (B) of section 343.01 of the Revised Code to establish the former and resulting districts and any amendments to those agreements.

For the purposes of the provisions of division (B) of this section establishing the times when newly established or amended fees levied by a district are required to commence and the collection of

fees that have been amended or repealed is required to cease, "fees" or "schedule of fees" includes, in addition to fees levied under divisions (B)(1) to (3) of this section, those levied under section 3734.573 or 3734.574 of the Revised Code.

(C) For the purposes of defraying the added costs to a municipal corporation or township of maintaining roads and other public facilities and of providing emergency and other public services, and compensating a municipal corporation or township for reductions in real property tax revenues due to reductions in real property valuations resulting from the location and operation of a solid waste disposal facility within the municipal corporation or township, a municipal corporation or township in which such a solid waste disposal facility is located may levy a fee of not more than twenty-five cents per ton on the disposal of solid wastes at a solid waste disposal facility located within the boundaries of the municipal corporation or township regardless of where the wastes were generated.

The legislative authority of a municipal corporation or township may levy fees under this division by enacting an ordinance or adopting a resolution establishing the amount of the fees. Upon so doing the legislative authority shall mail a certified copy of the ordinance or resolution to the board of county commissioners or directors of the county or joint solid waste management district in which the municipal corporation or township is located or, if a regional solid waste management authority has been formed under section 343.011 of the Revised Code, to the board of trustees of that regional authority, the owner or operator of each solid waste disposal facility in the municipal corporation or township that is required to collect the fee by the ordinance or resolution, and the director of environmental protection. Although the fees levied under this division are levied on the basis of tons as the unit of measurement, the legislative authority, in its ordinance or resolution levying the fees under this division, may direct that the fees be levied on the basis of cubic yards as the unit of measurement based upon a conversion factor of three cubic yards per ton generally or one cubic yard per ton for baled wastes.

Not later than five days after enacting an ordinance or adopting a resolution under this division, the legislative authority shall so notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fee. Collection of any fee levied on or after March 24, 1992, shall commence on the first day of the second month following the month in which notification is sent to the owner or operator.

(D)(1) The fees levied under divisions (A), (B), and (C) of this section do not apply to the disposal of solid wastes that:

(a) Are disposed of at a facility owned by the generator of the wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated;

(b) Are generated from the combustion of coal, or from the combustion of primarily coal, regardless of whether the disposal facility is located on the premises where the wastes are generated;

(c) Are asbestos or asbestos-containing materials or products disposed of at a construction and demolition debris facility that is licensed under Chapter 3714. of the Revised Code or at a solid waste facility that is licensed under this chapter.

(2) Except as provided in section 3734.571 of the Revised Code, any fees levied under division (B)(1) of this section apply to solid wastes originating outside the boundaries of a county or

joint district that are covered by an agreement for the joint use of solid waste facilities entered into under section 343.02 of the Revised Code by the board of county commissioners or board of directors of the county or joint district where the wastes are generated and disposed of.

(3) When solid wastes, other than solid wastes that consist of scrap tires, are burned in a disposal facility that is an incinerator or energy recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash remaining after burning of the solid wastes and shall be collected by the owner or operator of the sanitary landfill where the ash is disposed of.

(4) When solid wastes are delivered to a solid waste transfer facility, the fees levied under divisions (B) and (C) of this section shall be levied upon the disposal of solid wastes transported off the premises of the transfer facility for disposal and shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of.

(5) The fees levied under divisions (A), (B), and (C) of this section do not apply to sewage sludge that is generated by a waste water treatment facility holding a national pollutant discharge elimination system permit and that is disposed of through incineration, land application, or composting or at another resource recovery or disposal facility that is not a landfill.

(6) The fees levied under divisions (A), (B), and (C) of this section do not apply to solid wastes delivered to a solid waste composting facility for processing. When any unprocessed solid waste or compost product is transported off the premises of a composting facility and disposed of at a landfill, the fees levied under divisions (A), (B), and (C) of this section shall be collected by the owner or operator of the landfill where the unprocessed waste or compost product is disposed of.

(7) When solid wastes that consist of scrap tires are processed at a scrap tire recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash or other solid wastes remaining after the processing of the scrap tires and shall be collected by the owner or operator of the solid waste disposal facility where the ash or other solid wastes are disposed of.

(8) The director of environmental protection may issue an order exempting from the fees levied under this section solid wastes, including, but not limited to, scrap tires, that are generated, transferred, or disposed of as a result of a contract providing for the expenditure of public funds entered into by the administrator or regional administrator of the United States environmental protection agency, the director of environmental protection, or the director of administrative services on behalf of the director of environmental protection for the purpose of remediating conditions at a hazardous waste facility, solid waste facility, or other location at which the administrator or regional administrator or the director of environmental protection has reason to believe that there is a substantial threat to public health or safety or the environment or that the conditions are causing or contributing to air or water pollution or soil contamination. An order issued by the director of environmental protection under division (D)(8) of this section shall include a determination that the amount of the fees not received by a solid waste management district as a result of the order will not adversely impact the implementation and financing of the district's approved solid waste management plan and any approved amendments to the plan. Such an order is a final action of the director of environmental protection.

(E) The fees levied under divisions (B) and (C) of this section shall be collected by the owner

or operator of the solid waste disposal facility where the wastes are disposed of as a trustee for the county or joint district and municipal corporation or township where the wastes are disposed of. Moneys from the fees levied under division (B) of this section shall be forwarded to the board of county commissioners or board of directors of the district in accordance with rules adopted under division (H) of this section. Moneys from the fees levied under division (C) of this section shall be forwarded to the treasurer or such other officer of the municipal corporation as, by virtue of the charter, has the duties of the treasurer or to the fiscal officer of the township, as appropriate, in accordance with those rules.

(F) Moneys received by the treasurer or other officer of the municipal corporation under division (E) of this section shall be paid into the general fund of the municipal corporation. Moneys received by the fiscal officer of the township under that division shall be paid into the general fund of the township. The treasurer or other officer of the municipal corporation or the township fiscal officer, as appropriate, shall maintain separate records of the moneys received from the fees levied under division (C) of this section.

(G) Moneys received by the board of county commissioners or board of directors under division (E) of this section or section 3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code shall be paid to the county treasurer, or other official acting in a similar capacity under a county charter, in a county district or to the county treasurer or other official designated by the board of directors in a joint district and kept in a separate and distinct fund to the credit of the district. If a regional solid waste management authority has been formed under section 343.011 of the Revised Code, moneys received by the board of trustees of that regional authority under division (E) of this section shall be kept by the board in a separate and distinct fund to the credit of the district. Moneys in the special fund of the county or joint district arising from the fees levied under division (B) of this section and the fee levied under division (A) of section 3734.573 of the Revised Code shall be expended by the board of county commissioners or directors of the district in accordance with the district's solid waste management plan or amended plan approved under section 3734.521, 3734.55, or 3734.56 of the Revised Code exclusively for the following purposes:

(1) Preparation of the solid waste management plan of the district under section 3734.54 of the Revised Code, monitoring implementation of the plan, and conducting the periodic review and amendment of the plan required by section 3734.56 of the Revised Code by the solid waste management policy committee;

(2) Implementation of the approved solid waste management plan or amended plan of the district, including, without limitation, the development and implementation of solid waste recycling or reduction programs;

(3) Providing financial assistance to boards of health within the district, if solid waste facilities are located within the district, for enforcement of this chapter and rules, orders, and terms and conditions of permits, licenses, and variances adopted or issued under it, other than the hazardous waste provisions of this chapter and rules adopted and orders and terms and conditions of permits issued under those provisions;

(4) Providing financial assistance to each county within the district to defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the

district's approved solid waste management plan or amended plan;

(5) Pursuant to contracts entered into with boards of health within the district, if solid waste facilities contained in the district's approved plan or amended plan are located within the district, for paying the costs incurred by those boards of health for collecting and analyzing samples from public or private water wells on lands adjacent to those facilities;

(6) Developing and implementing a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's approved solid waste management plan or amended plan;

(7) Providing financial assistance to boards of health within the district for the enforcement of section 3734.03 of the Revised Code or to local law enforcement agencies having jurisdiction within the district for enforcing anti-littering laws and ordinances;

(8) Providing financial assistance to boards of health of health districts within the district that are on the approved list under section 3734.08 of the Revised Code to defray the costs to the health districts for the participation of their employees responsible for enforcement of the solid waste provisions of this chapter and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under those provisions in the training and certification program as required by rules adopted under division (L) of section 3734.02 of the Revised Code;

(9) Providing financial assistance to individual municipal corporations and townships within the district to defray their added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation within their boundaries of a composting, energy or resource recovery, incineration, or recycling facility that either is owned by the district or is furnishing solid waste management facility or recycling services to the district pursuant to a contract or agreement with the board of county commissioners or directors of the district;

(10) Payment of any expenses that are agreed to, awarded, or ordered to be paid under section 3734.35 of the Revised Code and of any administrative costs incurred pursuant to that section. In the case of a joint solid waste management district, if the board of county commissioners of one of the counties in the district is negotiating on behalf of affected communities, as defined in that section, in that county, the board shall obtain the approval of the board of directors of the district in order to expend moneys for administrative costs incurred.

Prior to the approval of the district's solid waste management plan under section 3734.55 of the Revised Code, moneys in the special fund of the district arising from the fees shall be expended for those purposes in the manner prescribed by the solid waste management policy committee by resolution.

Notwithstanding division (G)(6) of this section as it existed prior to October 29, 1993, or any provision in a district's solid waste management plan prepared in accordance with division (B)(2)(e) of section 3734.53 of the Revised Code as it existed prior to that date, any moneys arising from the fees levied under division (B)(3) of this section prior to January 1, 1994, may be expended for any of the purposes authorized in divisions (G)(1) to (10) of this section.

(H) The director shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures for collecting and forwarding the fees levied under divisions (B) and (C) of this section to the boards of county commissioners or directors of county or joint solid waste

management districts and to the treasurers or other officers of municipal corporations and the fiscal officers of townships. The rules also shall prescribe the dates for forwarding the fees to the boards and officials and may prescribe any other requirements the director considers necessary or appropriate to implement and administer divisions (A), (B), and (C) of this section.

**Sec. 3734.822.** (A) There is hereby created in the state treasury the scrap tire grant fund, consisting of moneys transferred to the fund under section 3734.82 of the Revised Code. The director of environmental protection may make grants from the fund for the following purposes:

- (1) Supporting market development activities for scrap tires and synthetic rubber from tire manufacturing processes and tire recycling processes;
- (2) Supporting scrap tire amnesty and cleanup events sponsored by solid waste management districts.

Grants awarded under division (A)(1) of this section may be awarded to individuals, businesses, and entities certified under division (F)(6) of section 3734.49 of the Revised Code.

(B) Projects and activities that are eligible for grants under division (A)(1) of this section shall be evaluated for funding using, at a minimum, the following criteria:

- (1) The degree to which a proposed project contributes to the increased use of scrap tires generated in this state;
- (2) The degree of local financial support for a proposed project;
- (3) The technical merit and quality of a proposed project.

**Sec. 3734.901.** (A)(1) For the purpose of providing revenue to defray the cost of administering and enforcing the scrap tire provisions of this chapter, rules adopted under those provisions, and terms and conditions of orders, variances, and licenses issued under those provisions; to abate accumulations of scrap tires; to make grants supporting market development activities for scrap tires and synthetic rubber from tire manufacturing processes and tire recycling processes and to support scrap tire amnesty and cleanup events; to make loans to promote the recycling or recovery of energy from scrap tires; and to defray the costs of administering and enforcing sections 3734.90 to 3734.9014 of the Revised Code, a fee of fifty cents per tire is hereby levied on the sale of tires. The proceeds of the fee shall be deposited in the state treasury to the credit of the scrap tire management fund created in section 3734.82 of the Revised Code. The fee is levied from the first day of the calendar month that begins next after thirty days from October 29, 1993, through June 30, 2020.

(2) Beginning on July 1, 2011, and ending on June 30, 2020, there is hereby levied an additional fee of fifty cents per tire on the sale of tires the proceeds of which shall be deposited in the state treasury to the credit of the soil and water conservation district assistance fund created in section 940.15 of the Revised Code.

(B) Only one sale of the same article shall be used in computing the amount of the fee due.

**Sec. 3736.03.** (A) There is hereby created in the state treasury the recycling and litter prevention fund, consisting of moneys distributed to it from fees, including the fee levied under division (A)(2) of section 3714.073 of the Revised Code, gifts, donations, grants, reimbursements, and other sources, including investment earnings.

(B) The director of environmental protection shall do all of the following:

- (1) Use moneys credited to the fund exclusively for the purposes set forth in sections 3734.49, 3736.02, 3736.05, and 3745.014 of the Revised Code, with particular emphasis on programs



relating to recycling;

(2) Require recipients of grants under section 3736.05 of the Revised Code, as a condition of receiving and retaining them, to do all of the following:

(a) Create a separate account for the grants and any cash donations received that qualify for the donor credit allowed by section 5733.064 of the Revised Code;

(b) Make expenditures from the account exclusively for the purposes for which the grants were received;

(c) Use any auditing and accounting practices the director considers necessary regarding the account;

(d) Report to the director information regarding the amount and donor of cash donations received as described by section 5733.064 of the Revised Code;

(e) Use grants received to supplement and not to replace any existing funding for such purposes.

(3) Report to the tax commissioner information the director receives pursuant to division (B) (2)(d) of this section.

**Sec. 3736.05.** (A) The director of environmental protection, pursuant to division (F)(6) of section 3734.49 of the Revised Code, may make grants from the recycling and litter prevention fund created in section 3736.03 of the Revised Code to accomplish the purposes of the programs established under section 3736.02 of the Revised Code.

(B) Except as provided in division (C) of this section, the director may require any eligible applicant certified by the materials management advisory council under division (F)(6) of section 3734.49 of the Revised Code that applies for a grant for an activity or project that is intended to further the purposes of any program established under division (A)(1), (2), or (4) of section 3736.02 of the Revised Code to provide a matching contribution of not more than fifty per cent of the grant.

(C) Notwithstanding division (B) of this section, any grant awarded under division (A) of this section to foster cooperative research and development regarding recycling or the cooperative establishment or expansion of private recycling facilities or programs shall be made in conjunction with a contribution to the project by a cooperating enterprise that maintains or proposes to maintain a relevant research and development or recycling facility or program in this state or by an agency of the state, provided that funding provided by a state agency shall not be provided from general revenue funds appropriated by the general assembly. No grant made under division (A) of this section for the purposes described in this division shall exceed the contribution made by the cooperating enterprise or state agency. The director may consider cooperating contributions in the form of state of the art new equipment or in other forms if the director determines that the contribution is essential to the successful implementation of the project.

Grants made under division (A) of this section for the purposes described in this division shall be made in such form and conditioned on such terms as the director considers to be appropriate.

(D)(1) The director may require any eligible applicant certified by the advisory council under division (F)(6) of section 3734.49 of the Revised Code that applies for a grant that is intended to further the purposes of the program established under division (A)(3) of section 3736.02 of the Revised Code, except any eligible applicant that is or is located in a county that has a per capita income equal to or below ninety per cent of the median county per capita income of the state as

determined by the director using the most recently available figures from the United States census bureau, to provide a matching contribution as follows:

(a) Up to ten per cent of the grant from any eligible applicant that is or is located in a county that has a per capita income above ninety per cent of the median county per capita income of the state, but equal to or below one hundred per cent of the median county per capita income of the state;

(b) Up to twenty per cent of the grant from any eligible applicant that is or is located in a county that has a per capita income above the median county per capita income of the state.

(2) If the eligible applicant is a joint solid waste management district or is filing a joint application on behalf of two or more counties, the matching contribution required under division (D) (1) of this section shall be the average of the matching contributions of all of the counties covered by the application as determined in accordance with that division. The matching contribution of a county that has a per capita income equal to or below ninety per cent of the median county per capita income of the state shall be included as zero in calculating the average matching contribution.

(E) The director shall ensure that not less than fifty per cent of the moneys distributed as grants under this section shall be expended for the purposes of recycling and recycling market development.

(F) No information that is submitted to, acquired by, or exchanged with employees of the environmental protection agency who administer or provide services under this section and that is submitted, acquired, or exchanged in order to obtain a grant pursuant to division (A) of this section shall be used in any manner for the purpose of the enforcement of any requirement established in an environmental law or used as evidence in any judicial or administrative enforcement proceeding unless that information reveals a clear and immediate danger to the environment or to the health, safety, or welfare of the public.

(G) Nothing in this section confers immunity on persons from enforcement that is based on information that is obtained by the director or the director's authorized representatives who are not employees of the agency who administer or provide services under this section.

(H) As used in this section, "environmental law" means a law that is administered by the environmental protection agency.

**Sec. 3736.06.** (A) Agencies of the state certified pursuant to section 3734.49 of the Revised Code as eligible to receive a grant shall designate an employee as the liaison with the director of environmental protection to cooperate with the director in carrying out the director's duties under this chapter.

(B) The executive and legislative authorities of municipal corporations, counties, and townships and the boards of park commissioners of township park districts created under section 511.18 of the Revised Code, boards of park commissioners of park districts created under section 1545.04 of the Revised Code, and boards of education of city, exempted village, local, and joint vocational school districts may participate in the programs established under section 3736.02 of the Revised Code.

**Sec. 3737.17.** (A) As used in this section, a "qualifying small government" means any of the following:

(1) A township that has a population of not more than five thousand or, regardless of its population, is located in a county that has a population of less than one hundred thousand;

(2) A municipal corporation that has a population of not more than seven thousand five hundred;

(3) A fire district, joint fire district, or fire and ambulance district that shares territory exclusively with townships or municipal corporations that meet the conditions of division (A)(1) or (2) of this section.

(B) The state fire marshal shall administer a small government fire department services revolving loan program under which the state fire marshal makes loans to qualifying small governments for the following purposes:

(1) To expedite purchases of major equipment for fire fighting, ambulance, emergency medical, or rescue services;

(2) To expedite projects for the construction or renovation of fire department buildings.

A loan for either purpose under the small government fire department services revolving loan program is not to carry interest, and is to be repaid within a term of not longer than twenty years. A qualifying small government is not eligible to receive a loan for a project or purchase under the program unless the qualifying small government contributes to the project or purchase an amount equal to at least five per cent of the loan amount.

(C) A qualifying small government may apply to the state fire marshal for a loan under the small government fire department services revolving loan program. In its application, the qualifying small government shall explain how it qualifies for the loan, describe the project or purchase for which it is requesting a loan, state the amount of the loan it requests, and state the amount it is prepared to contribute to the project or purchase. The qualifying small government shall provide additional information to support its application for a loan under the program as requested by the state fire marshal.

(D) The state fire marshal, in accordance with Chapter 119. of the Revised Code, shall adopt rules for the administration of the small government fire department services revolving loan program.

(E) There is hereby created in the state treasury the small government fire department services revolving loan fund, into which shall be deposited repayments by qualifying small governments of loans authorized under this section. The fund also shall consist of appropriated money. Investment earnings on money in the fund shall be credited to the fund. The state fire marshal shall use the money credited to the fund to make loans to qualifying small governments as described in this section. The state fire marshal may loan money from repaid loans credited to the fund at any time to qualifying small governments in accordance with this section.

**Sec. 3737.84.** (A) The state fire code adopted pursuant to sections 3737.82 and 3737.83 of the Revised Code shall not contain any provision as follows:

(1) Relating to the organization or structure of a municipal or township fire department;

(2) Relating to structural building requirements covered by the Ohio building code;

(3) That would cause an employer, in complying with it, to be in violation of the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, or the "Consumer Product Safety Act of 1972," 86 Stat. 1207, 15 U.S.C.A. 2051;

(4) Regulating manufacturers or manufacturing facilities with respect to occupational hazards where they are subject to regulation by the federal occupational safety and health administration;

(5) That is inconsistent with, or in conflict with, regulations of the federal occupational safety

and health administration or the hazardous materials regulations of the hazardous materials regulations board of the federal highway administration, United States department of transportation, or the public utilities commission;

(6) That establishes a minimum standard of flammability for consumer goods in any area where the "Flammable Fabrics Act," 81 Stat. 568 (1967), 15 U.S.C. 1191 authorizes the federal government or any department or agency of the federal government to establish national standards of flammability for consumer goods;

(7) That establishes a health or safety standard for the use of explosives in mining, for which the federal government through its authorized agency sets health or safety standards pursuant to section 6 of the "Federal Metal and Nonmetallic Mine Safety Act of 1966," 80 Stat. 772, 30 U.S.C. 725, or section 101 of the "Federal Coal Mine Health and Safety Act of 1969," 83 Stat. 745, 30 U.S.C.A. 811;

(8) That is inconsistent with, or in conflict with, section 3737.73 or Chapter 3743. of the Revised Code, or the rules adopted pursuant to that chapter;

(9)(a) Restricting the dispensing of diesel fuel at a terminal or bulk plant into a motor vehicle that is transporting petroleum products or equipment essential to the operation of the terminal or bulk plant, provided that the motor vehicle is owned or leased by or operated under a contract with a person who has been issued a motor fuel dealer's license under section 5735.021 of the Revised Code;

(b) Authorizing the dispensing of any petroleum products at a terminal or bulk plant from an aboveground storage tank at the terminal or bulk plant to a motor vehicle other than a motor vehicle that is described in division (A)(9)(a) of this section or to a member of the general public.

As used in division (A)(9) of this section, "terminal or bulk plant" means that portion of a property where petroleum products are received by tank vessels, pipelines, tank cars, or tank vehicles and are stored or blended in bulk for the purpose of distributing the petroleum products via tank vessel, pipeline, tank car, tank vehicle, portable tank, or container.

(10) That prohibits the use of a device described in section 3781.106 of the Revised Code and used in accordance with rules adopted pursuant to that section.

(B) No penalty shall be imposed by the fire marshal on any person for a violation of the state fire code if a penalty has been imposed or an order issued by the federal government for a violation of a similar provision contained in or adopted pursuant to the federal acts referred to in this section, where the facts that constitute the violation of the state fire code are the same as those that constitute the violation or alleged violation of the federal act.

**Sec. 3743.07.** Licensed manufacturers of fireworks shall keep complete records of all fireworks in their inventory.

**Sec. 3743.20.** Licensed wholesalers of fireworks shall keep complete records of all fireworks in their inventory.-

**Sec. 3743.44.** (A) Any person who resides in another state and who intends to obtain possession in this state of fireworks purchased in this state shall obtain possession of the fireworks only from a licensed manufacturer or licensed wholesaler and only possess the fireworks in this state while in the course of directly transporting them out of this state.

No licensed manufacturer or licensed wholesaler shall sell 1.3G fireworks to a person who

resides in another state unless that person has been issued a license or permit in the state of the person's residence that authorizes the person to engage in the manufacture, wholesale sale, or retail sale of 1.3G fireworks or that authorizes the person to conduct 1.3G fireworks exhibitions in that state and that person presents a certified copy of the license.

No licensed manufacturer or licensed wholesaler shall sell fireworks to a person who resides in another state unless that person has been issued a license or permit in the state of the person's residence that authorizes the person to engage in the manufacture, wholesale sale, or retail sale of fireworks in that state or that authorizes the person to conduct fireworks exhibitions in that state and that person presents a certified copy of the license, or, if that person does not possess a license or permit of that nature, only if the person presents a current valid motor vehicle operator's license issued to the person in the person's state of residence, or, if that person does not possess a motor vehicle operator's license issued in that state, an identification card issued to the person by a governmental agency in the person's state of residence indicating that the person is a resident of that state. If a person who is required to present a motor vehicle operator's license or other identification card intends to transport the fireworks purchased directly out of this state by a motor vehicle and the person will not also be the operator of that motor vehicle while so transporting the fireworks, the operator of the motor vehicle also shall present the operator's motor vehicle operator's license.

(B) Each purchaser of fireworks under this section shall transport the fireworks so purchased directly out of this state within forty-eight hours after the time of their purchase.

This section regulates wholesale sales and retail sales of fireworks in this state only insofar as purchasers of fireworks are residents of other states and will be obtaining possession in this state of purchased fireworks. This section does not prohibit licensed manufacturers or wholesalers from selling fireworks, in accordance with section 3743.04 or sections 3743.17 and 3743.25 of the Revised Code, to a resident of another state and from shipping the purchased fireworks directly out of this state to the purchaser.

**Sec. 3743.45.** (A) Any person who resides in this state and who intends to obtain possession in this state of 1.4G fireworks purchased in this state shall obtain possession of the 1.4G fireworks only from a licensed manufacturer or licensed wholesaler.

Each purchaser of 1.4G fireworks under this division shall transport the fireworks so purchased directly out of this state within forty-eight hours after the time of their purchase.

This division does not apply to a person who resides in this state and who is also a licensed manufacturer, licensed wholesaler, or licensed exhibitor of fireworks in this state.

(B) No licensed manufacturer or licensed wholesaler shall sell 1.3G fireworks to a person who resides in this state unless that person is a licensed manufacturer, licensed wholesaler, or licensed exhibitor of fireworks in this state.

**Sec. 3743.63.** (A) No person who resides in another state and purchases fireworks in this state shall obtain possession of the fireworks in this state unless the person complies with section 3743.44 of the Revised Code.

(B) No person who resides in another state and who purchases fireworks in this state shall obtain possession of fireworks in this state other than from a licensed manufacturer or wholesaler, or fail, when transporting 1.3G fireworks, to transport them directly out of this state within seventy-two hours after the time of their purchase. No such person shall give or sell to any other person in this

state fireworks that the person has acquired in this state.

(C) No person who resides in this state and purchases fireworks in this state shall obtain possession of the fireworks in this state unless the person complies with section 3743.45 of the Revised Code.

(D) No person who resides in this state and who purchases fireworks in this state under section 3743.45 of the Revised Code shall obtain possession of fireworks in this state other than from a licensed manufacturer or licensed wholesaler, or fail, when transporting the fireworks, to transport them directly out of this state within forty-eight hours after the time of their purchase. No such person shall give or sell to any other person in this state fireworks that the person has acquired in this state.

**Sec. 3743.65.** (A) No person shall possess fireworks in this state or shall possess for sale or sell fireworks in this state, except a licensed manufacturer of fireworks as authorized by sections 3743.02 to 3743.08 of the Revised Code, a licensed wholesaler of fireworks as authorized by sections 3743.15 to 3743.21 of the Revised Code, a shipping permit holder as authorized by section 3743.40 of the Revised Code, an out-of-state resident as authorized by section 3743.44 of the Revised Code, a resident of this state as authorized by section 3743.45 of the Revised Code, or a licensed exhibitor of fireworks as authorized by sections 3743.50 to 3743.55 of the Revised Code, and except as provided in section 3743.80 of the Revised Code.

(B) Except as provided in section 3743.80 of the Revised Code and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to sections 3743.50 to 3743.55 of the Revised Code, no person shall discharge, ignite, or explode any fireworks in this state.

(C) No person shall use in a theater or public hall, what is technically known as fireworks showers, or a mixture containing potassium chlorate and sulphur.

(D) No person shall sell fireworks of any kind to a person under eighteen years of age. No person under eighteen years of age shall enter a fireworks sales showroom unless that person is accompanied by a parent, legal guardian, or other responsible adult. No person under eighteen years of age shall touch or possess fireworks on a licensed premises without the consent of the licensee. A licensee may eject any person from a licensed premises that is in any way disruptive to the safe operation of the premises.

(E) Except as otherwise provided in section 3743.44 of the Revised Code, no person, other than a licensed manufacturer, licensed wholesaler, licensed exhibitor, or shipping permit holder, shall possess 1.3G fireworks in this state.

(F) Except as otherwise provided in division (J) of section 3743.06 and division (K) of section 3743.19 of the Revised Code, no person shall knowingly disable a fire suppression system as defined in section 3781.108 of the Revised Code on the premises of a fireworks plant of a licensed manufacturer of fireworks or on the premises of the business operations of a licensed wholesaler of fireworks.

**Sec. 3743.75.** (A) During the period beginning on June 29, 2001, and ending on September 15, 2018, the state fire marshal shall not do any of the following:

(1) Issue a license as a manufacturer of fireworks under sections 3743.02 and 3743.03 of the Revised Code to a person for a particular fireworks plant unless that person possessed such a license for that fireworks plant immediately prior to June 29, 2001;

(2) Issue a license as a wholesaler of fireworks under sections 3743.15 and 3743.16 of the Revised Code to a person for a particular location unless that person possessed such a license for that location immediately prior to June 29, 2001;

(3) Except as provided in division (B) of this section, approve the geographic transfer of a license as a manufacturer or wholesaler of fireworks issued under this chapter to any location other than a location for which a license was issued under this chapter immediately prior to June 29, 2001.

(B) Division (A)(3) of this section does not apply to a transfer that the state fire marshal approves under division (F) of section 3743.17 of the Revised Code.

(C) Notwithstanding section 3743.59 of the Revised Code, the prohibited activities established in divisions (A)(1) and (2) of this section, geographic transfers approved pursuant to division (F) of section 3743.17 of the Revised Code, and storage locations allowed pursuant to division (I) of section 3743.04 of the Revised Code or division (G) of section 3743.17 of the Revised Code are not subject to any variance, waiver, or exclusion.

(D) As used in division (A) of this section:

(1) "Person" includes any person or entity, in whatever form or name, that acquires possession of a manufacturer or wholesaler of fireworks license issued pursuant to this chapter by transfer of possession of a license, whether that transfer occurs by purchase, assignment, inheritance, bequest, stock transfer, or any other type of transfer, on the condition that the transfer is in accordance with division (D) of section 3743.04 of the Revised Code or division (D) of section 3743.17 of the Revised Code and is approved by the fire marshal.

(2) "Particular location" includes a licensed premises and, regardless of when approved, any storage location approved in accordance with section 3743.04 or 3743.17 of the Revised Code.

(3) "Such a license" includes a wholesaler of fireworks license that was issued in place of a manufacturer of fireworks license that existed prior to June 29, 2001, and was requested to be canceled by the license holder pursuant to division (D) of section 3743.03 of the Revised Code.

**Sec. 3745.015.** There is hereby created in the state treasury the environmental protection fund consisting of money credited to the fund under division (A)(3) of section 3734.57 of the Revised Code. The environmental protection agency shall use money in the fund to pay the agency's costs associated with administering and enforcing, or otherwise conducting activities under, this chapter and Chapters 3704., 3734., 3746., 3747., 3748., 3750., 3751., 3752., 3753., 5709., 6101., 6103., 6105., 6109., 6111., 6112., 6113., 6115., 6117., and 6119. and section 122.65 of the Revised Code, including providing compliance assistance to small businesses.

**Sec. 3745.11.** (A) Applicants for and holders of permits, licenses, variances, plan approvals, and certifications issued by the director of environmental protection pursuant to Chapters 3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee to the environmental protection agency for each such issuance and each application for an issuance as provided by this section. No fee shall be charged for any issuance for which no application has been submitted to the director.

(B) Except as otherwise provided in division (C)(2) of this section, beginning July 1, 1994, each person who owns or operates an air contaminant source and who is required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay the fees set forth in this division. For the purposes of this division, total emissions of air contaminants may be calculated using engineering calculations, emissions factors, material balance calculations, or performance

testing procedures, as authorized by the director.

The following fees shall be assessed on the total actual emissions from a source in tons per year of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead:

(1) Fifteen dollars per ton on the total actual emissions of each such regulated pollutant during the period July through December 1993, to be collected no sooner than July 1, 1994;

(2) Twenty dollars per ton on the total actual emissions of each such regulated pollutant during calendar year 1994, to be collected no sooner than April 15, 1995;

(3) Twenty-five dollars per ton on the total actual emissions of each such regulated pollutant in calendar year 1995, and each subsequent calendar year, to be collected no sooner than the fifteenth day of April of the year next succeeding the calendar year in which the emissions occurred.

The fees levied under this division do not apply to that portion of the emissions of a regulated pollutant at a facility that exceed four thousand tons during a calendar year.

(C)(1) The fees assessed under division (B) of this section are for the purpose of providing funding for the Title V permit program.

(2) The fees assessed under division (B) of this section do not apply to emissions from any electric generating unit designated as a Phase I unit under Title IV of the federal Clean Air Act prior to calendar year 2000. Those fees shall be assessed on the emissions from such a generating unit commencing in calendar year 2001 based upon the total actual emissions from the generating unit during calendar year 2000 and shall continue to be assessed each subsequent calendar year based on the total actual emissions from the generating unit during the preceding calendar year.

(3) The director shall issue invoices to owners or operators of air contaminant sources who are required to pay a fee assessed under division (B) or (D) of this section. Any such invoice shall be issued no sooner than the applicable date when the fee first may be collected in a year under the applicable division, shall identify the nature and amount of the fee assessed, and shall indicate that the fee is required to be paid within thirty days after the issuance of the invoice.

(D)(1) Except as provided in division (D)(3) of this section, from January 1, 1994, through December 31, 2003, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted per facility	Annual fee
More than 0, but less than 50	\$ 75
50 or more, but less than 100	300
100 or more	700

(2) Except as provided in division (D)(3) of this section, beginning January 1, 2004, each



person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.03 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted per facility	Annual fee
More than 0, but less than 10	\$ 100
10 or more, but less than 50	200
50 or more, but less than 100	300
100 or more	700

(3)(a) As used in division (D) of this section, "synthetic minor facility" means a facility for which one or more permits to install or permits to operate have been issued for the air contaminant sources at the facility that include terms and conditions that lower the facility's potential to emit air contaminants below the major source thresholds established in rules adopted under section 3704.036 of the Revised Code.

(b) Beginning January 1, 2000, through June 30, 2020, each person who owns or operates a synthetic minor facility shall pay an annual fee based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and lead in accordance with the following schedule:

Combined total tons per year of all regulated pollutants emitted	Annual fee per facility
Less than 10	\$ 170
10 or more, but less than 20	340
20 or more, but less than 30	670
30 or more, but less than 40	1,010
40 or more, but less than 50	1,340
50 or more, but less than 60	1,680
60 or more, but less than 70	2,010
70 or more, but less than 80	2,350
80 or more, but less than 90	2,680
90 or more, but less than 100	3,020

100 or more 3,350

(4) The fees assessed under division (D)(1) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 1995. The fees assessed under division (D)(2) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 2005. The fees assessed under division (D)(3) of this section shall be collected no sooner than the fifteenth day of April, commencing in 2000. The fees assessed under division (D) of this section in a calendar year shall be based upon the sum of the actual emissions of those regulated pollutants during the preceding calendar year. For the purpose of division (D) of this section, emissions of air contaminants may be calculated using engineering calculations, emission factors, material balance calculations, or performance testing procedures, as authorized by the director. The director, by rule, may require persons who are required to pay the fees assessed under division (D) of this section to pay those fees biennially rather than annually.

(E)(1) Consistent with the need to cover the reasonable costs of the Title V permit program, the director annually shall increase the fees prescribed in division (B) of this section by the percentage, if any, by which the consumer price index for the most recent calendar year ending before the beginning of a year exceeds the consumer price index for calendar year 1989. Upon calculating an increase in fees authorized by division (E)(1) of this section, the director shall compile revised fee schedules for the purposes of division (B) of this section and shall make the revised schedules available to persons required to pay the fees assessed under that division and to the public.

(2) For the purposes of division (E)(1) of this section:

(a) The consumer price index for any year is the average of the consumer price index for all urban consumers published by the United States department of labor as of the close of the twelve-month period ending on the thirty-first day of August of that year.

(b) If the 1989 consumer price index is revised, the director shall use the revision of the consumer price index that is most consistent with that for calendar year 1989.

(F) Each person who is issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code on or after July 1, 2003, shall pay the fees specified in the following schedules:

(1) Fuel-burning equipment (boilers, furnaces, or process heaters used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer)

Input capacity (maximum)

(million British thermal units per hour) Permit to install

Greater than 0, but less than 10 \$ 200

10 or more, but less than 100 400

100 or more, but less than 300 1000

300 or more, but less than 500 2250

500 or more, but less than 1000 3750

1000 or more, but less than 5000      6000

5000 or more      9000

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half the applicable amount shown in division (F)(1) of this section.

(2) Combustion turbines and stationary internal combustion engines designed to generate electricity

Generating capacity (mega watts)      Permit to install

0 or more, but less than 10      \$ 25

10 or more, but less than 25      150

25 or more, but less than 50      300

50 or more, but less than 100      500

100 or more, but less than 250      1000

250 or more      2000

(3) Incinerators

Input capacity

(pounds per hour)      Permit to install

0 to 100      \$ 100

101 to 500      500

501 to 2000      1000

2001 to 20,000      1500

more than 20,000      3750

(4)(a) Process

Process weight rate

(pounds per hour)      Permit to install

0 to 1000      \$ 200

1001 to 5000      500

5001 to 10,000      750

10,001 to 50,000      1000

more than 50,000      1250

In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed. A boiler, furnace, combustion turbine, stationary internal combustion engine, or process heater designed to provide direct heat or power to a process not designed to generate electricity shall

be assessed a fee established in division (F)(4)(a) of this section. A combustion turbine or stationary internal combustion engine designed to generate electricity shall be assessed a fee established in division (F)(2) of this section.

(b) Notwithstanding division (F)(4)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees set forth in division (F)(4)(c) of this section for a process used in any of the following industries, as identified by the applicable two-digit, three-digit, or four-digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1987, as revised:

- Major group 10, metal mining;
- Major group 12, coal mining;
- Major group 14, mining and quarrying of nonmetallic minerals;
- Industry group 204, grain mill products;
- 2873 Nitrogen fertilizers;
- 2874 Phosphatic fertilizers;
- 3281 Cut stone and stone products;
- 3295 Minerals and earth, ground or otherwise treated;
- 4221 Grain elevators (storage only);
- 5159 Farm related raw materials;
- 5261 Retail nurseries and lawn and garden supply stores.

(c) The fees set forth in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process identified in division (F)(4)(b) of this section:

Process weight rate

(pounds per hour)	Permit to install
0 to 10,000	\$ 200
10,001 to 50,000	400
50,001 to 100,000	500
100,001 to 200,000	600
200,001 to 400,000	750
400,001 or more	900
(5) Storage tanks	

Gallons

(maximum useful capacity)	Permit to install
0 to 20,000	\$ 100
20,001 to 40,000	150

40,001 to 100,000	250
100,001 to 500,000	400
500,001 or greater	750

(6) Gasoline/fuel dispensing facilities

For each gasoline/fuel dispensing facility (includes all units at the facility) Permit to install \$100  
 (7) Dry cleaning facilities

For each dry cleaning facility (includes all units at the facility) Permit to install \$100  
 (8) Registration status

For each source covered by registration status Permit to install \$75

(G) An owner or operator who is responsible for an asbestos demolition or renovation project pursuant to rules adopted under section 3704.03 of the Revised Code shall pay, upon submitting a notification pursuant to rules adopted under that section, the fees set forth in the following schedule:

Action Fee

Each notification	\$75
Asbestos removal	\$3/unit
Asbestos cleanup	\$4/cubic yard

For purposes of this division, "unit" means any combination of linear feet or square feet equal to fifty.

(H) A person who is issued an extension of time for a permit to install an air contaminant source pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay a fee equal to one-half the fee originally assessed for the permit to install under this section, except that the fee for such an extension shall not exceed two hundred dollars.

(I) A person who is issued a modification to a permit to install an air contaminant source pursuant to rules adopted under section 3704.03 of the Revised Code shall pay a fee equal to one-half of the fee that would be assessed under this section to obtain a permit to install the source. The fee assessed by this division only applies to modifications that are initiated by the owner or operator of

the source and shall not exceed two thousand dollars.

(J) Notwithstanding division (F) of this section, a person who applies for or obtains a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code after the date actual construction of the source began shall pay a fee for the permit to install that is equal to twice the fee that otherwise would be assessed under the applicable division unless the applicant received authorization to begin construction under division (W) of section 3704.03 of the Revised Code. This division only applies to sources for which actual construction of the source begins on or after July 1, 1993. The imposition or payment of the fee established in this division does not preclude the director from taking any administrative or judicial enforcement action under this chapter, Chapter 3704., 3714., 3734., or 6111. of the Revised Code, or a rule adopted under any of them, in connection with a violation of rules adopted under division (F) of section 3704.03 of the Revised Code.

As used in this division, "actual construction of the source" means the initiation of physical on-site construction activities in connection with improvements to the source that are permanent in nature, including, without limitation, the installation of building supports and foundations and the laying of underground pipework.

(K)(1) Money received under division (B) of this section shall be deposited in the state treasury to the credit of the Title V clean air fund created in section 3704.035 of the Revised Code. Annually, not more than fifty cents per ton of each fee assessed under division (B) of this section on actual emissions from a source and received by the environmental protection agency pursuant to that division may be transferred by the director using an interstate transfer voucher to the state treasury to the credit of the small business assistance fund created in section 3706.19 of the Revised Code. In addition, annually, the amount of money necessary for the operation of the office of ombudsperson as determined under division (B) of that section shall be transferred to the state treasury to the credit of the small business ombudsperson fund created by that section.

(2) Money received by the agency pursuant to divisions (D), (F), (G), (H), (I), and (J) of this section shall be deposited in the state treasury to the credit of the non-Title V clean air fund created in section 3704.035 of the Revised Code.

(L)(1) A person applying for a plan approval for a wastewater treatment works pursuant to section 6111.44, 6111.45, or 6111.46 of the Revised Code shall pay a nonrefundable fee of one hundred dollars plus sixty-five one-hundredths of one per cent of the estimated project cost through June 30, 2020, and a nonrefundable application fee of one hundred dollars plus two-tenths of one per cent of the estimated project cost on and after July 1, 2020, except that the total fee shall not exceed fifteen thousand dollars through June 30, 2020, and five thousand dollars on and after July 1, 2020. The fee shall be paid at the time the application is submitted.

(2) A person who has entered into an agreement with the director under section 6111.14 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons who have entered into agreements under that section, or who have applied for agreements, of the amount of the fee.

(3)(a)(i) Not later than January 30, 2018, and January 30, 2019, a person holding an NPDES discharge permit issued pursuant to Chapter 6111. of the Revised Code with an average daily

discharge flow of five thousand gallons or more shall pay a nonrefundable annual discharge fee. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required annual discharge fee.

(ii) The billing year for the annual discharge fee established in division (L)(3)(a)(i) of this section shall consist of a twelve-month period beginning on the first day of January of the year preceding the date when the annual discharge fee is due. In the case of an existing source that permanently ceases to discharge during a billing year, the director shall reduce the annual discharge fee, including the surcharge applicable to certain industrial facilities pursuant to division (L)(3)(c) of this section, by one-twelfth for each full month during the billing year that the source was not discharging, but only if the person holding the NPDES discharge permit for the source notifies the director in writing, not later than the first day of October of the billing year, of the circumstances causing the cessation of discharge.

(iii) The annual discharge fee established in division (L)(3)(a)(i) of this section, except for the surcharge applicable to certain industrial facilities pursuant to division (L)(3)(c) of this section, shall be based upon the average daily discharge flow in gallons per day calculated using first day of May through thirty-first day of October flow data for the period two years prior to the date on which the fee is due. In the case of NPDES discharge permits for new sources, the fee shall be calculated using the average daily design flow of the facility until actual average daily discharge flow values are available for the time period specified in division (L)(3)(a)(iii) of this section. The annual discharge fee may be prorated for a new source as described in division (L)(3)(a)(ii) of this section.

(b)(i) An NPDES permit holder that is a public discharger shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, 2018, and January 30, 2019
5,000 to 49,999	\$ 200
50,000 to 100,000	500
100,001 to 250,000	1,050
250,001 to 1,000,000	2,600
1,000,001 to 5,000,000	5,200
5,000,001 to 10,000,000	10,350
10,000,001 to 20,000,000	15,550
20,000,001 to 50,000,000	25,900
50,000,001 to 100,000,000	41,400
100,000,001 or more	62,100

(ii) Public dischargers owning or operating two or more publicly owned treatment works

serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand persons shall pay an annual discharge fee under division (L)(3)(b)(i) of this section that is based on the combined average daily discharge flow of the treatment works.

(c)(i) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, 2018, and January 30, 2019
5,000 to 49,999	\$ 250
50,000 to 250,000	1,200
250,001 to 1,000,000	2,950
1,000,001 to 5,000,000	5,850
5,000,001 to 10,000,000	8,800
10,000,001 to 20,000,000	11,700
20,000,001 to 100,000,000	14,050
100,000,001 to 250,000,000	16,400
250,000,001 or more	18,700

(ii) In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L)(3)(a)(ii) of this section shall pay a nonrefundable annual surcharge of seven thousand five hundred dollars not later than January 30, 2018, and not later than January 30, 2019. Any person who fails to pay the surcharge at that time shall pay an additional amount that equals ten per cent of the amount of the surcharge.

(d) Notwithstanding divisions (L)(3)(b) and (c) of this section, a public discharger, that is not a separate municipal storm sewer system, identified by I in the third character of the permittee's NPDES permit number and an industrial discharger identified by I, J, L, V, W, X, Y, or Z in the third character of the permittee's NPDES permit number shall pay a nonrefundable annual discharge fee of one hundred eighty dollars not later than January 30, 2018, and not later than January 30, 2019. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee.

(4) Each person obtaining an NPDES permit for municipal storm water discharge shall pay a nonrefundable storm water annual discharge fee of ten dollars per one-tenth of a square mile of area permitted. The fee shall not exceed ten thousand dollars and shall be payable on or before January 30, 2004, and the thirtieth day of January of each year thereafter. Any person who fails to pay the fee



on the date specified in division (L)(4) of this section shall pay an additional amount per year equal to ten per cent of the annual fee that is unpaid.

(5) The director shall transmit all moneys collected under division (L) of this section to the treasurer of state for deposit into the state treasury to the credit of the surface water protection fund created in section 6111.038 of the Revised Code.

(6) As used in this section:

(a) "NPDES" means the federally approved national pollutant discharge elimination system individual and general program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements under Chapter 6111. of the Revised Code and rules adopted under it.

(b) "Public discharger" means any holder of an NPDES permit identified by P in the second character of the NPDES permit number assigned by the director.

(c) "Industrial discharger" means any holder of an NPDES permit identified by I in the second character of the NPDES permit number assigned by the director.

(d) "Major discharger" means any holder of an NPDES permit classified as major by the regional administrator of the United States environmental protection agency in conjunction with the director.

(M) Through June 30, 2020, a person applying for a license or license renewal to operate a public water system under section 6109.21 of the Revised Code shall pay the appropriate fee established under this division at the time of application to the director. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

Except as provided in divisions (M)(4) and (5) of this section, fees required under this division shall be calculated and paid in accordance with the following schedule:

(1) For the initial license required under section 6109.21 of the Revised Code for any public water system that is a community water system as defined in section 6109.01 of the Revised Code, and for each license renewal required for such a system prior to January 31, 2020, the fee is:

Number of service connections	Fee amount
Not more than 49	\$ 112
50 to 99	176

Number of service connections	Average cost per connection
100 to 2,499	\$ 1.92
2,500 to 4,999	1.48
5,000 to 7,499	1.42
7,500 to 9,999	1.34

10,000 to 14,999	1.16
15,000 to 24,999	1.10
25,000 to 49,999	1.04
50,000 to 99,999	.92
100,000 to 149,999	.86
150,000 to 199,999	.80
200,000 or more	.76

A public water system may determine how it will pay the total amount of the fee calculated under division (M)(1) of this section, including the assessment of additional user fees that may be assessed on a volumetric basis.

As used in division (M)(1) of this section, "service connection" means the number of active or inactive pipes, goosenecks, pigtails, and any other fittings connecting a water main to any building outlet.

(2) For the initial license required under section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a nontransient population, and for each license renewal required for such a system prior to January 31, 2020, the fee is:

Population served	Fee amount
Fewer than 150	\$ 112
150 to 299	176
300 to 749	384
750 to 1,499	628
1,500 to 2,999	1,268
3,000 to 7,499	2,816
7,500 to 14,999	5,510
15,000 to 22,499	9,048
22,500 to 29,999	12,430
30,000 or more	16,820

As used in division (M)(2) of this section, "population served" means the total number of individuals having access to the water supply during a twenty-four-hour period for at least sixty days during any calendar year. In the absence of a specific population count, that number shall be calculated at the rate of three individuals per service connection.

(3) For the initial license required under section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a transient population, and for each license renewal required for such a system prior to January 31, 2020, the fee is:

Number of wells or sources,	Fee amount
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other than surface water,  
supplying system

1	\$112
2	112
3	176
4	278
5	568

System designated as  
using a surface water source 792

As used in division (M)(3) of this section, "number of wells or sources, other than surface water, supplying system" means those wells or sources that are physically connected to the plumbing system serving the public water system.

(4) A public water system designated as using a surface water source shall pay a fee of seven hundred ninety-two dollars or the amount calculated under division (M)(1) or (2) of this section, whichever is greater.

(5) An applicant for an initial license who is proposing to operate a new public water supply system shall submit a fee that equals a prorated amount of the appropriate fee for the remainder of the licensing year.

(N)(1) A person applying for a plan approval for a public water supply system under section 6109.07 of the Revised Code shall pay a fee of one hundred fifty dollars plus thirty-five hundredths of one per cent of the estimated project cost, except that the total fee shall not exceed twenty thousand dollars through June 30, 2020, and fifteen thousand dollars on and after July 1, 2020. The fee shall be paid at the time the application is submitted.

(2) A person who has entered into an agreement with the director under division (A)(2) of section 6109.07 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons that have entered into agreements under that division, or who have applied for agreements, of the amount of the fee.

(3) Through June 30, 2020, the following fee, on a per survey basis, shall be charged any person for services rendered by the state in the evaluation of laboratories and laboratory personnel for compliance with accepted analytical techniques and procedures established pursuant to Chapter 6109. of the Revised Code for determining the qualitative characteristics of water:

microbiological

MMO-MUG	\$ 2,000
MF	2,100

996

MMO-MUG and MF	2,550
organic chemical	5,400
trace metals	5,400
standard chemistry	2,800
limited chemistry	1,550

On and after July 1, 2020, the following fee, on a per survey basis, shall be charged any such person:

microbiological	\$ 1,650
organic chemicals	3,500
trace metals	3,500
standard chemistry	1,800
limited chemistry	1,000

The fee for those services shall be paid at the time the request for the survey is made. Through June 30, 2020, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period unless the person requests the addition of analytical methods or analysts, in which case the person shall pay eighteen hundred dollars for each additional survey requested.

As used in division (N)(3) of this section:

- (a) "MF" means microfiltration.
- (b) "MMO" means minimal medium ONPG.
- (c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide.
- (d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(O) Any person applying to the director to take an examination for certification as an operator of a water supply system or wastewater system under Chapter 6109. or 6111. of the Revised Code that is administered by the director, at the time the application is submitted, shall pay a fee in accordance with the following schedule through November 30, 2020:

Class A operator	\$ 80
Class I operator	105
Class II operator	120
Class III operator	130
Class IV operator	145

On and after December 1, 2020, the applicant shall pay a fee in accordance with the following schedule:

Class A operator	\$ 50
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Class I operator	70
Class II operator	80
Class III operator	90
Class IV operator	100

Any person applying to the director for certification as an operator of a water supply system or wastewater system who has passed an examination administered by an examination provider approved by the director shall pay a certification fee of forty-five dollars.

A person shall pay a biennial certification renewal fee for each applicable class of certification in accordance with the following schedule:

Class A operator	\$25
Class I operator	35
Class II operator	45
Class III operator	55
Class IV operator	65

If a certification renewal fee is received by the director more than thirty days, but not more than one year, after the expiration date of the certification, the person shall pay a certification renewal fee in accordance with the following schedule:

Class A operator	\$45
Class I operator	55
Class II operator	65
Class III operator	75
Class IV operator	85

A person who requests a replacement certificate shall pay a fee of twenty-five dollars at the time the request is made.

Any person applying to be a water supply system or wastewater treatment system examination provider shall pay an application fee of five hundred dollars. Any person approved by the director as a water supply system or wastewater treatment system examination provider shall pay an annual fee that is equal to ten per cent of the fees that the provider assesses and collects for administering water supply system or wastewater treatment system certification examinations in this state for the calendar year. The fee shall be paid not later than forty-five days after the end of a calendar year.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(P) Any person submitting an application for an industrial water pollution control certificate under section 6111.31 of the Revised Code, as that section existed before its repeal by H.B. 95 of the 125th general assembly, shall pay a nonrefundable fee of five hundred dollars at the time the application is submitted. The director shall transmit all moneys collected under this division to the

treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. A person paying a certificate fee under this division shall not pay an application fee under division (S)(1) of this section. On and after June 26, 2003, persons shall file such applications and pay the fee as required under sections 5709.20 to 5709.27 of the Revised Code, and proceeds from the fee shall be credited as provided in section 5709.212 of the Revised Code.

(Q) Except as otherwise provided in division (R) of this section, a person issued a permit by the director for a new solid waste disposal facility other than an incineration or composting facility, a new infectious waste treatment facility other than an incineration facility, or a modification of such an existing facility that includes an increase in the total disposal or treatment capacity of the facility pursuant to Chapter 3734. of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal or treatment capacity, or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars. A person issued a modification of a permit for a solid waste disposal facility or an infectious waste treatment facility that does not involve an increase in the total disposal or treatment capacity of the facility shall pay a fee of one thousand dollars. A person issued a permit to install a new, or modify an existing, solid waste transfer facility under that chapter shall pay a fee of two thousand five hundred dollars. A person issued a permit to install a new or to modify an existing solid waste incineration or composting facility, or an existing infectious waste treatment facility using incineration as its principal method of treatment, under that chapter shall pay a fee of one thousand dollars. The increases in the permit fees under this division resulting from the amendments made by Amended Substitute House Bill 592 of the 117th general assembly do not apply to any person who submitted an application for a permit to install a new, or modify an existing, solid waste disposal facility under that chapter prior to September 1, 1987; any such person shall pay the permit fee established in this division as it existed prior to June 24, 1988. In addition to the applicable permit fee under this division, a person issued a permit to install or modify a solid waste facility or an infectious waste treatment facility under that chapter who fails to pay the permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the permit fee is late.

Permit and late payment fees paid to the director under this division shall be credited to the general revenue fund.

(R)(1) A person issued a registration certificate for a scrap tire collection facility under section 3734.75 of the Revised Code shall pay a fee of two hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(2) A person issued a registration certificate for a new scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of three hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(3) A person issued a permit for a scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of one thousand dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of fifty dollars.

(4) A person issued a permit for a scrap tire monocell or monofill facility under section

3734.77 of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal capacity or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars.

(5) A person issued a registration certificate for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one hundred dollars.

(6) A person issued a permit for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one thousand dollars.

(7) In addition to the applicable registration certificate or permit fee under divisions (R)(1) to (6) of this section, a person issued a registration certificate or permit for any such scrap tire facility who fails to pay the registration certificate or permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the fee is late.

(8) The registration certificate, permit, and late payment fees paid to the director under divisions (R)(1) to (7) of this section shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code.

(S)(1)(a) Except as provided by divisions (L), (M), (N), (O), (P), and (S)(2) of this section, division (A)(2) of section 3734.05 of the Revised Code, section 3734.79 of the Revised Code, and rules adopted under division (T)(1) of this section, any person applying for a registration certificate under section 3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, variance, or plan approval under Chapter 3734. of the Revised Code shall pay a nonrefundable fee of fifteen dollars at the time the application is submitted.

(b) Except as otherwise provided, any person applying for a permit, variance, or plan approval under Chapter 6109. or 6111. of the Revised Code shall pay a nonrefundable application fee of one hundred dollars at the time the application is submitted through June 30, 2020, and a nonrefundable application fee of fifteen dollars at the time the application is submitted on and after July 1, 2020.

(c)(i) Except as otherwise provided in divisions (S)(1)(c)(iii) and (iv) of this section, through June 30, 2020, any person applying for an NPDES permit under Chapter 6111. of the Revised Code shall pay a nonrefundable application fee of two hundred dollars at the time of application for the permit. On and after July 1, 2020, such a person shall pay a nonrefundable application fee of fifteen dollars at the time of application.

(ii) In addition to the nonrefundable application fee, any person applying for an NPDES permit under Chapter 6111. of the Revised Code shall pay a design flow discharge fee based on each point source to which the issuance is applicable in accordance with the following schedule:

Design flow discharge (gallons per day)	Fee
0 to <del>1000</del> <u>1,000</u>	\$ 0
1,001 to <del>5000</del> <u>5,000</u>	100
5,001 to 50,000	200

50,001 to 100,000	300
100,001 to 300,000	525
over 300,000	750

(iii) Notwithstanding divisions (S)(1)(c)(i) and (ii) of this section, the application and design flow discharge fee for an NPDES permit for a public discharger identified by the letter I in the third character of the NPDES permit number shall not exceed nine hundred fifty dollars.

(iv) Notwithstanding divisions (S)(1)(c)(i) and (ii) of this section, the application and design flow discharge fee for an NPDES permit for a coal mining operation regulated under Chapter 1513. of the Revised Code shall not exceed four hundred fifty dollars per mine.

(v) A person issued a modification of an NPDES permit shall pay a nonrefundable modification fee equal to the application fee and one-half the design flow discharge fee based on each point source, if applicable, that would be charged for an NPDES permit, except that the modification fee shall not exceed six hundred dollars.

(d) In addition to the application fee established under division (S)(1)(c)(i) of this section, any person applying for an NPDES general storm water construction permit shall pay a nonrefundable fee of twenty dollars per acre for each acre that is permitted above five acres at the time the application is submitted. However, the per acreage fee shall not exceed three hundred dollars. In addition to the application fee established under division (S)(1)(c)(i) of this section, any person applying for an NPDES general storm water industrial permit shall pay a nonrefundable fee of one hundred fifty dollars at the time the application is submitted.

(e) The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(f) The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6111. of the Revised Code and under division (S)(3) of this section to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

(g) If a registration certificate is issued under section 3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of the application fee paid shall be deducted from the amount of the registration certificate fee due under division (R)(1), (2), or (5) of this section, as applicable.

(h) If a person submits an electronic application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section, the person shall pay all applicable fees as expeditiously as possible after the submission of the electronic application. An application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section shall not be reviewed or processed until the applicable application fee, and any other fees established under this division, are paid.

(2) Division (S)(1) of this section does not apply to an application for a registration certificate for a scrap tire collection or storage facility submitted under section 3734.75 or 3734.76 of the Revised Code, as applicable, if the owner or operator of the facility or proposed facility is a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code.



(3) A person applying for coverage under an NPDES general discharge permit for household sewage treatment systems shall pay the following fees:

(a) A nonrefundable fee of two hundred dollars at the time of application for initial permit coverage;

(b) A nonrefundable fee of one hundred dollars at the time of application for a renewal of permit coverage.

(T) The director may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Prescribe fees to be paid by applicants for and holders of any license, permit, variance, plan approval, or certification required or authorized by Chapter 3704., 3734., 6109., or 6111. of the Revised Code that are not specifically established in this section. The fees shall be designed to defray the cost of processing, issuing, revoking, modifying, denying, and enforcing the licenses, permits, variances, plan approvals, and certifications.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6111. of the Revised Code to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

(2) Exempt the state and political subdivisions thereof, including education facilities or medical facilities owned by the state or a political subdivision, or any person exempted from taxation by section 5709.07 or 5709.12 of the Revised Code, from any fee required by this section;

(3) Provide for the waiver of any fee, or any part thereof, otherwise required by this section whenever the director determines that the imposition of the fee would constitute an unreasonable cost of doing business for any applicant, class of applicants, or other person subject to the fee;

(4) Prescribe measures that the director considers necessary to carry out this section.

(U) When the director reasonably demonstrates that the direct cost to the state associated with the issuance of a permit, license, variance, plan approval, or certification exceeds the fee for the issuance or review specified by this section, the director may condition the issuance or review on the payment by the person receiving the issuance or review of, in addition to the fee specified by this section, the amount, or any portion thereof, in excess of the fee specified under this section. The director shall not so condition issuances for which a fee is prescribed in division (S)(1)(c)(iii) of this section.

(V) Except as provided in divisions (L), (M), (P), and (S) of this section or unless otherwise prescribed by a rule of the director adopted pursuant to Chapter 119. of the Revised Code, all fees required by this section are payable within thirty days after the issuance of an invoice for the fee by the director or the effective date of the issuance of the license, permit, variance, plan approval, or certification. If payment is late, the person responsible for payment of the fee shall pay an additional ten per cent of the amount due for each month that it is late.

(W) As used in this section, "fuel-burning equipment," "fuel-burning equipment input capacity," "incinerator," "incinerator input capacity," "process," "process weight rate," "storage tank," "gasoline dispensing facility," "dry cleaning facility," "design flow discharge," and "new source

treatment works" have the meanings ascribed to those terms by applicable rules or standards adopted by the director under Chapter 3704. or 6111. of the Revised Code.

(X) As used in divisions (B), (D), (E), (F), (H), (I), and (J) of this section, and in any other provision of this section pertaining to fees paid pursuant to Chapter 3704. of the Revised Code:

(1) "Facility," "federal Clean Air Act," "person," and "Title V permit" have the same meanings as in section 3704.01 of the Revised Code.

(2) "Title V permit program" means the following activities as necessary to meet the requirements of Title V of the federal Clean Air Act and 40 C.F.R. part 70, including at least:

(a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement;

(b) Reviewing and acting on any application for a Title V permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a permit, permit revision, or permit renewal;

(c) Administering the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry;

(d) Determining which sources are subject to the program and implementing and enforcing the terms of any Title V permit, not including any court actions or other formal enforcement actions;

(e) Emission and ambient monitoring;

(f) Modeling, analyses, or demonstrations;

(g) Preparing inventories and tracking emissions;

(h) Providing direct and indirect support to small business stationary sources to determine and meet their obligations under the federal Clean Air Act pursuant to the small business stationary source technical and environmental compliance assistance program required by section 507 of that act and established in sections 3704.18, 3704.19, and 3706.19 of the Revised Code.

(3) "Organic compound" means any chemical compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.

(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) of this section, each sewage sludge facility shall pay a nonrefundable annual sludge fee equal to three dollars and fifty cents per dry ton of sewage sludge, including the dry tons of sewage sludge in materials derived from sewage sludge, that the sewage sludge facility treats or disposes of in this state. The annual volume of sewage sludge treated or disposed of by a sewage sludge facility shall be calculated using the first day of January through the thirty-first day of December of the calendar year preceding the date on which payment of the fee is due.

(2)(a) Except as provided in division (Y)(2)(d) of this section, each sewage sludge facility shall pay a minimum annual sewage sludge fee of one hundred dollars.

(b) The annual sludge fee required to be paid by a sewage sludge facility that treats or disposes of exceptional quality sludge in this state shall be thirty-five per cent less per dry ton of exceptional quality sludge than the fee assessed under division (Y)(1) of this section, subject to the following exceptions:

(i) Except as provided in division (Y)(2)(d) of this section, a sewage sludge facility that treats or disposes of exceptional quality sludge shall pay a minimum annual sewage sludge fee of one hundred dollars.

(ii) A sewage sludge facility that treats or disposes of exceptional quality sludge shall not be required to pay the annual sludge fee for treatment or disposal in this state of exceptional quality sludge generated outside of this state and contained in bags or other containers not greater than one hundred pounds in capacity.

A thirty-five per cent reduction for exceptional quality sludge applies to the maximum annual fees established under division (Y)(3) of this section.

(c) A sewage sludge facility that transfers sewage sludge to another sewage sludge facility in this state for further treatment prior to disposal in this state shall not be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred. In such a case, the sewage sludge facility that disposes of the sewage sludge shall pay the annual sludge fee. However, the facility transferring the sewage sludge shall pay the one-hundred-dollar minimum fee required under division (Y)(2)(a) of this section.

In the case of a sewage sludge facility that treats sewage sludge in this state and transfers it out of this state to another entity for disposal, the sewage sludge facility in this state shall be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred.

(d) A sewage sludge facility that generates sewage sludge resulting from an average daily discharge flow of less than five thousand gallons per day is not subject to the fees assessed under division (Y) of this section.

(3) No sewage sludge facility required to pay the annual sludge fee shall be required to pay more than the maximum annual fee for each disposal method that the sewage sludge facility uses. The maximum annual fee does not include the additional amount that may be charged under division (Y)(5) of this section for late payment of the annual sludge fee. The maximum annual fee for the following methods of disposal of sewage sludge is as follows:

(a) Incineration: five thousand dollars;

(b) Preexisting land reclamation project or disposal in a landfill: five thousand dollars;

(c) Land application, land reclamation, surface disposal, or any other disposal method not specified in division (Y)(3)(a) or (b) of this section: twenty thousand dollars.

(4)(a) In the case of an entity that generates sewage sludge or a sewage sludge facility that treats sewage sludge and transfers the sewage sludge to an incineration facility for disposal, the incineration facility, and not the entity generating the sewage sludge or the sewage sludge facility treating the sewage sludge, shall pay the annual sludge fee for the tons of sewage sludge that are transferred. However, the entity or facility generating or treating the sewage sludge shall pay the one-hundred-dollar minimum fee required under division (Y)(2)(a) of this section.

(b) In the case of an entity that generates sewage sludge and transfers the sewage sludge to a landfill for disposal or to a sewage sludge facility for land reclamation or surface disposal, the entity generating the sewage sludge, and not the landfill or sewage sludge facility, shall pay the annual sludge fee for the tons of sewage sludge that are transferred.

(5) Not later than the first day of April of the calendar year following March 17, 2000, and each first day of April thereafter, the director shall issue invoices to persons who are required to pay the annual sludge fee. The invoice shall identify the nature and amount of the annual sludge fee assessed and state the first day of May as the deadline for receipt by the director of objections regarding the amount of the fee and the first day of July as the deadline for payment of the fee.

Not later than the first day of May following receipt of an invoice, a person required to pay the annual sludge fee may submit objections to the director concerning the accuracy of information regarding the number of dry tons of sewage sludge used to calculate the amount of the annual sludge fee or regarding whether the sewage sludge qualifies for the exceptional quality sludge discount established in division (Y)(2)(b) of this section. The director may consider the objections and adjust the amount of the fee to ensure that it is accurate.

If the director does not adjust the amount of the annual sludge fee in response to a person's objections, the person may appeal the director's determination in accordance with Chapter 119. of the Revised Code.

Not later than the first day of June, the director shall notify the objecting person regarding whether the director has found the objections to be valid and the reasons for the finding. If the director finds the objections to be valid and adjusts the amount of the annual sludge fee accordingly, the director shall issue with the notification a new invoice to the person identifying the amount of the annual sludge fee assessed and stating the first day of July as the deadline for payment.

Not later than the first day of July, any person who is required to do so shall pay the annual sludge fee. Any person who is required to pay the fee, but who fails to do so on or before that date shall pay an additional amount that equals ten per cent of the required annual sludge fee.

(6) The director shall transmit all moneys collected under division (Y) of this section to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. The moneys shall be used to defray the costs of administering and enforcing provisions in Chapter 6111. of the Revised Code and rules adopted under it that govern the use, storage, treatment, or disposal of sewage sludge.

(7) Beginning in fiscal year 2001, and every two years thereafter, the director shall review the total amount of moneys generated by the annual sludge fees to determine if that amount exceeded six hundred thousand dollars in either of the two preceding fiscal years. If the total amount of moneys in the fund exceeded six hundred thousand dollars in either fiscal year, the director, after review of the fee structure and consultation with affected persons, shall issue an order reducing the amount of the fees levied under division (Y) of this section so that the estimated amount of moneys resulting from the fees will not exceed six hundred thousand dollars in any fiscal year.

If, upon review of the fees under division (Y)(7) of this section and after the fees have been reduced, the director determines that the total amount of moneys collected and accumulated is less than six hundred thousand dollars, the director, after review of the fee structure and consultation with affected persons, may issue an order increasing the amount of the fees levied under division (Y) of this section so that the estimated amount of moneys resulting from the fees will be approximately six hundred thousand dollars. Fees shall never be increased to an amount exceeding the amount specified in division (Y)(7) of this section.

Notwithstanding section 119.06 of the Revised Code, the director may issue an order under division (Y)(7) of this section without the necessity to hold an adjudicatory hearing in connection with the order. The issuance of an order under this division is not an act or action for purposes of section 3745.04 of the Revised Code.

(8) As used in division (Y) of this section:

(a) "Sewage sludge facility" means an entity that performs treatment on or is responsible for

the disposal of sewage sludge.

(b) "Sewage sludge" means a solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works as defined in section 6111.01 of the Revised Code. "Sewage sludge" includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes. "Sewage sludge" does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screenings generated during preliminary treatment of domestic sewage in a treatment works, animal manure, residue generated during treatment of animal manure, or domestic septage.

(c) "Exceptional quality sludge" means sewage sludge that meets all of the following qualifications:

- (i) Satisfies the class A pathogen standards in 40 C.F.R. 503.32(a);
- (ii) Satisfies one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)(1) to (b)(8);
- (iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13;
- (iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13.

(d) "Treatment" means the preparation of sewage sludge for final use or disposal and includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge.

(e) "Disposal" means the final use of sewage sludge, including, but not limited to, land application, land reclamation, surface disposal, or disposal in a landfill or an incinerator.

(f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage sludge below the land surface, or the incorporation of sewage sludge into the soil for the purposes of conditioning the soil or fertilizing crops or vegetation grown in the soil.

(g) "Land reclamation" means the returning of disturbed land to productive use.

(h) "Surface disposal" means the placement of sludge on an area of land for disposal, including, but not limited to, monofills, surface impoundments, lagoons, waste piles, or dedicated disposal sites.

(i) "Incinerator" means an entity that disposes of sewage sludge through the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device.

(j) "Incineration facility" includes all incinerators owned or operated by the same entity and located on a contiguous tract of land. Areas of land are considered to be contiguous even if they are separated by a public road or highway.

(k) "Annual sludge fee" means the fee assessed under division (Y)(1) of this section.

(l) "Landfill" means a sanitary landfill facility, as defined in rules adopted under section 3734.02 of the Revised Code, that is licensed under section 3734.05 of the Revised Code.

(m) "Preexisting land reclamation project" means a property-specific land reclamation project that has been in continuous operation for not less than five years pursuant to approval of the activity by the director and includes the implementation of a community outreach program concerning the activity.

**Sec. 3745.70.** As used in sections 3745.70 to 3745.73 of the Revised Code:

(A) "Environmental audit" means a voluntary, thorough, and discrete self-evaluation of one or more activities at one or more facilities or properties that is documented; is designed to improve compliance, or identify, correct, or prevent noncompliance, with environmental laws; and is conducted by the owner or operator of a facility or property or the owner's or operator's employee or independent contractor. An environmental audit may be conducted by the owner or operator of a facility or property, the owner's or operator's employees, or independent contractors. Once initiated, an audit shall be completed within a reasonable time, not to exceed six months, unless a written request for an extension is approved by the head officer of the governmental agency, or division or office thereof, with jurisdiction over the activities being audited based on a showing of reasonable grounds. An audit shall not be considered to be initiated until the owner or operator or the owner's or operator's employee or independent contractor actively has begun the self-evaluation of environmental compliance.

(B) "Activity" means any process, procedure, or function that is subject to environmental laws.

(C) "Voluntary" means, with respect to an environmental audit of a particular activity, that both of the following apply when the audit of that activity commences:

(1) The audit is not required by law, prior litigation, or an order by a court or a government agency;

(2) The owner or operator who conducts the audit does not know or have reason to know that a government agency has commenced an investigation or enforcement action that concerns a violation of environmental laws involving the activity or that such an investigation or enforcement action is imminent.

(D) "Environmental audit report" means interim or final data, documents, records, or plans that are necessary to an environmental audit and are collected, developed, made, and maintained in good faith as part of the audit, and may include, without limitation:

(1) Analytical data, laboratory reports, field notes and records of observations, findings, opinions, suggestions, conclusions, drafts, memoranda, drawings, photographs, computer-generated or electronically recorded information, maps, charts, graphs, and surveys;

(2) Reports that describe the scope, objectives, and methods of the environmental audit, audit management policies, the information gained by the environmental audit, and conclusions and recommendations together with exhibits and appendices;

(3) Memoranda, documents, records, and plans analyzing the environmental audit report or discussing implementation, prevention, compliance, and remediation issues associated with the environmental audit.

"Environmental audit report" does not mean corrective or remedial action taken pursuant to an environmental audit.

(E) "Environmental laws" means sections 939.02 and 1531.29, Chapters 3704., 3734., 3745., 3746., 3750., 3751., 3752., 6109., and 6111. of the Revised Code, and any other sections or chapters of the Revised Code the principal purpose of which is environmental protection; any federal or local counterparts or extensions of those sections or chapters; rules adopted under any such sections, chapters, counterparts, or extensions; and terms and conditions of orders, permits, licenses, license renewals, variances, exemptions, or plan approvals issued under such sections, chapters,

counterparts, or extensions.

**Sec. 3750.081.** (A) Notwithstanding any provision in this chapter to the contrary, an owner or operator of a facility that is regulated under Chapter 1509. of the Revised Code shall be deemed to have satisfied all of the inventory requirements established under this chapter, except for the release reporting requirements established under section 3750.06 of the Revised Code, by complying with the requirements established in section 1509.231 of the Revised Code.

(B) The emergency response commission and every local emergency planning committee and fire department in this state shall establish a means by which to access, view, and retrieve information from the electronic database maintained by the division of oil and gas resources management in the department of natural resources in accordance with section 1509.231 of the Revised Code. With respect to facilities regulated under Chapter 1509. of the Revised Code, the database shall be the means of providing and receiving the information described in division (A) of this section.

**Sec. 3750.13.** (A)(1) Except as provided in division (A)(3) or (4) of this section, the owner or operator of a facility required to annually file an emergency and hazardous chemical inventory form under section 3750.08 of the Revised Code shall submit with the inventory form a filing fee of one hundred fifty dollars. In addition to the filing fee, the owner or operator shall submit with the inventory form the following additional fees for reporting inventories of the individual hazardous chemicals and extremely hazardous substances produced, used, or stored at the facility:

(a) Except as provided in division (A)(1)(b) of this section, an additional fee of twenty dollars per hazardous chemical enumerated on the inventory form;

(b) An additional fee of one hundred fifty dollars per extremely hazardous substance enumerated on the inventory form. The fee established in division (A)(1)(a) of this section does not apply to the reporting of the inventory of a hazardous chemical that is also an extremely hazardous substance to which the inventory reporting fee established in division (A)(1)(b) of this section applies.

The total fees required to accompany any inventory form shall not exceed twenty-five hundred dollars.

(2) An owner or operator of a facility who fails to submit such an inventory form within thirty days after the applicable filing date prescribed in section 3750.08 of the Revised Code shall submit with the inventory form a late filing fee in the amount of ten per cent per year of the total fees due under division (A)(1) or (4) of this section, in addition to the fees due under division (A)(1) or (4) of this section.

(3) The owner or operator of a facility who, during the preceding year, was required to pay a fee to a municipal corporation pursuant to an ordinance, rule, or requirement that was in effect on the effective date of this section for the reporting or providing of the names or amounts of extremely hazardous substances or hazardous chemicals produced, used, or stored at the facility may claim a credit against the fees due under division (A)(1) or (4) of this section for the fees paid to the municipal corporation pursuant to its reporting requirement. The amount of the credit claimed in any reporting year shall not exceed the amount of the fees due under division (A)(1) or (4) of this section during that reporting year, and no unused portion of the credit shall be carried over to subsequent years. In order to claim a credit under this division, the owner or operator shall submit with the emergency and hazardous chemical inventory form a receipt issued by the municipal corporation or

other documentation acceptable to the commission indicating the amount of the fee paid to the municipal corporation and the date on which the fee was paid.

(4) An owner or operator who is regulated under Chapter 1509. of the Revised Code and who submits information under section 1509.231 of the Revised Code for not more than twenty-five facilities shall submit to the emergency response commission on or before the first day of March a flat fee of fifty dollars if the facilities meet all of the following conditions:

(a) The facility exclusively stores crude oil or liquid hydrocarbons or other fluids resulting, obtained, or produced in connection with the production or storage of crude oil or natural gas.

(b) The crude oil, liquid hydrocarbons, or other fluids stored at the facility are conveyed directly to it through piping or tubing.

(c) The facility is located on the same site as, or on a site adjacent to, the well from which the crude oil, liquid hydrocarbons, or other fluids are produced or obtained.

(d) The facility is used for the storage of the crude oil, liquid hydrocarbons, or other fluids prior to their transportation off the premises of the facility for sale, use, or disposal.

An owner or operator who submits information for more than twenty-five facilities that meet all of the conditions prescribed in divisions (A)(4)(a) to (d) of this section shall submit to the commission a base fee of fifty dollars and an additional filing fee of ten dollars for each facility reported in excess of twenty-five, but not exceeding a total fee of nine hundred dollars.

As used in division (A)(4) of this section, "owner or operator" means the person who actually owns or operates any such facility and any other person who controls, is controlled by, or is under common control with the person who actually owns or operates the facility.

(B) The emergency response commission and the local emergency planning committee of an emergency planning district may establish fees to be paid by persons, other than public officers or employees, obtaining copies of documents or information submitted to the commission or a committee under this chapter. The fees shall be established at a level calculated to defray the costs to the commission or committee for copying the documents or information, but shall not exceed the maximum fees established in rules adopted under division (B)(8) of section 3750.02 of the Revised Code.

(C) Except as provided in this division and division (B) of this section, and except for fees authorized by section 3737.22 of the Revised Code or rules adopted under sections 3737.82 to 3737.882 of the Revised Code and collected exclusively for either of those purposes, no committee or political subdivision shall levy any fee, tax, excise, or other charge to carry out the purposes of this chapter. A committee may charge the actual costs involved in accessing any computerized data base established by the commission under this chapter or by the United States environmental protection agency under the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1729, 42 U.S.C.A. 11001.

(D) Moneys collected by the commission under this section shall be credited to the emergency planning and community right-to-know fund created in section 3750.14 of the Revised Code.

**Sec. 3769.03.** The state racing commission shall prescribe the rules and conditions under which horse racing may be conducted and may issue, deny, suspend, diminish, or revoke permits to conduct horse racing as authorized by sections 3769.01 to 3769.14 of the Revised Code. The



commission may impose, in addition to any other penalty imposed by the commission, fines in an amount not to exceed ten thousand dollars on any permit holder or any other person who violates the rules or orders of the commission. The commission may prescribe the forms of wagering that are permissible, the number of races, the procedures on wagering, and the wagering information to be provided to the public.

The commission may require totalizator equipment to display the amount of wagering in each wagering pool. The commission shall initiate safeguards as necessary to account for the amount of money wagered at each track in each wagering pool. It may require permit holders to install equipment that will provide a complete check and analysis of the functioning of any computers and require safeguards on their performance. The commission shall require all permit holders, except those holding state fair, county fair, or other fair permits, to provide a photographic recording, approved by the commission, of the entire running of all races conducted by the permit holder.

The state racing commission may issue, deny, suspend, or revoke licenses to those persons engaged in racing and to those employees of permit holders as is in the public interest for the purpose of maintaining a proper control over horse-racing meetings. The commission, as is in the public interest for the purpose of maintaining proper control over horse-racing meetings, also may rule any person off a permit holder's premises. License fees shall include registration fees and shall be set by the commission. Each license issued by the commission, unless revoked for cause, shall be for the period of one year from the first day of January of the year in which it is issued, except as otherwise provided in section 3769.07 of the Revised Code. Applicants for licenses issued by the commission shall submit their fingerprints to the commission, and the commission may forward the fingerprints to the federal bureau of investigation or to any other agency, or to both, for examination.

There is hereby created in the state treasury the state racing commission operating fund. All license fees established and collected by the commission pursuant to this section, and the amounts specified in divisions (B) and (C) of section 3769.08 and division (A)(5) of section 3769.087 of the Revised Code, shall be paid into the state treasury to the credit of the fund. Moneys in the fund shall be expended by the commission to defray its operating costs, salaries and expenses, and the cost of administering and enforcing this chapter.

The commission may deny a permit to any permit holder that has defaulted in payments to the public, employees, or the horsemen and may deny a permit to any successor purchaser of a track for as long as any of those defaults have not been satisfied by either the seller or purchaser.

The commission shall deny a permit to any permit holder that has defaulted in payments to the state or has defaulted in payments required under section 3769.089 or 3769.0810 of the Revised Code and shall deny a permit to any successor purchaser of a track for as long as those defaults have not been satisfied by either the seller or purchaser.

Any violation of this chapter, of any rule of racing adopted by the commission, or of any law or rule with respect to racing in any jurisdiction shall be sufficient reason for a refusal to issue a license, or a suspension or revocation of any license issued, pursuant to this section.

With respect to the issuance, denial, suspension, or revocation of a license to a participant in horse racing, the action of the commission shall be subject to Chapter 119. of the Revised Code.

The commission may sue and be sued in its own name. Any action against the commission shall be brought in the court of common pleas of Franklin county. Any appeal from a determination

or decision of the commission rendered in the exercise of its powers and duties under this chapter shall be brought in the court of common pleas of Franklin county.

The commission, biennially, shall make a full report to the governor of its proceedings for the two-year period ending with the thirty-first day of December preceding the convening of the general assembly and shall include its recommendations in the report. The commission, semiannually, on the thirtieth day of June and on the thirty-first day of December of each year, shall make a report and accounting to the governor.

**Sec. 3769.08.** (A) Any person holding a permit to conduct a horse-racing meeting may provide a place in the race meeting grounds or enclosure at which the permit holder may conduct and supervise the pari-mutuel system of wagering by patrons of legal age on the live racing programs and simulcast racing programs conducted by the permit holder.

The pari-mutuel method of wagering upon the live racing programs and simulcast racing programs held at or conducted within such race track, and at the time of such horse-racing meeting, or at other times authorized by the state racing commission, shall not be unlawful. No other place, except that provided and designated by the permit holder and except as provided in section 3769.26 of the Revised Code, nor any other method or system of betting or wagering on live racing programs and simulcast racing programs, except the pari-mutuel system, shall be used or permitted by the permit holder; nor, except as provided in section 3769.089 or 3769.26 of the Revised Code, shall the pari-mutuel system of wagering be conducted by the permit holder on any races except the races at the race track, grounds, or enclosure for which the person holds a permit. Each permit holder may retain as a commission an amount not to exceed eighteen per cent of the total of all moneys wagered on live racing programs and simulcast racing programs.

The pari-mutuel wagering authorized by this section is subject to sections 3769.25 to 3769.28 of the Revised Code.

(B) At the close of each racing day, each permit holder authorized to conduct thoroughbred racing, out of the amount retained on that day by the permit holder, shall pay in the manner prescribed under section 3769.103 of the Revised Code, as a tax, a sum equal to the following percentages of the total of all moneys wagered on live racing programs on that day and shall separately compute and pay in the manner prescribed under section 3769.103 of the Revised Code, as a tax, a sum equal to the following percentages of the total of all money wagered on simulcast racing programs on that day:

- (1) One per cent of the first two hundred thousand dollars wagered, or any part of that amount;
- (2) Two per cent of the next one hundred thousand dollars wagered, or any part of that amount;
- (3) Three per cent of the next one hundred thousand dollars wagered, or any part of that amount;
- (4) Four per cent of all sums over four hundred thousand dollars wagered.

Except as otherwise provided in section 3769.089 of the Revised Code, each permit holder authorized to conduct thoroughbred racing shall use for purse money a sum equal to fifty per cent of the pari-mutuel revenues retained by the permit holder as a commission after payment of the state tax. This fifty per cent payment shall be in addition to the purse distribution from breakage specified

in this section.

Subject to division (M) of this section, from the moneys paid to the tax commissioner by thoroughbred racing permit holders, one-half of one per cent of the total of all moneys so wagered on a racing day shall be paid into the Ohio fairs fund created by section 3769.082 of the Revised Code, one and one-eighth per cent of the total of all moneys so wagered on a racing day shall be paid into the Ohio thoroughbred race fund created by section 3769.083 of the Revised Code, and one-quarter of one per cent of the total of all moneys wagered on a racing day by each permit holder shall be paid into the state racing commission operating fund created by section 3769.03 of the Revised Code. The required payment to the state racing commission operating fund does not apply to county and independent fairs and agricultural societies. The remaining moneys may be retained by the permit holder, except as provided in this section with respect to the odd cents redistribution. Amounts paid into the nursing home franchise permit fee fund pursuant to this section and section 3769.26 of the Revised Code shall be used solely for the support of the PASSPORT program as determined in appropriations made by the general assembly. If the PASSPORT program is abolished, the amount that would have been paid to the nursing home franchise permit fee fund under this chapter shall be paid to the general revenue fund of the state. As used in this chapter, "PASSPORT program" has the same meaning as in section 173.51 of the Revised Code.

The total amount paid to the Ohio thoroughbred race fund under this section and division (A) of section 3769.087 of the Revised Code shall not exceed by more than six per cent the total amount paid to this fund under this section and division (A) of that section during the immediately preceding calendar year.

Each year, the total amount calculated for payment into the Ohio fairs fund under this division, division (C) of this section, and division (A) of section 3769.087 of the Revised Code shall be an amount calculated using the percentages specified in this division, division (C) of this section, and division (A) of section 3769.087 of the Revised Code.

A permit holder may contract with a thoroughbred horsemen's organization for the organization to act as a representative of all thoroughbred owners and trainers participating in a horse-racing meeting conducted by the permit holder. A "thoroughbred horsemen's organization" is any corporation or association that represents, through membership or otherwise, more than one-half of the aggregate of all thoroughbred owners and trainers who were licensed and actively participated in racing within this state during the preceding calendar year. Except as otherwise provided in this paragraph, any moneys received by a thoroughbred horsemen's organization shall be used exclusively for the benefit of thoroughbred owners and trainers racing in this state through the administrative purposes of the organization, benevolent activities on behalf of the horsemen, promotion of the horsemen's rights and interests, and promotion of equine research. A thoroughbred horsemen's organization may expend not more than an aggregate of five per cent of its annual gross receipts, or a larger amount as approved by the organization, for dues, assessments, and other payments to all other local, national, or international organizations having as their primary purposes the promotion of thoroughbred horse racing, thoroughbred horsemen's rights, and equine research.

(C) Except as otherwise provided in division (B) of this section, at the close of each racing day, each permit holder authorized to conduct harness or quarter horse racing, out of the amount retained that day by the permit holder, shall pay in the manner prescribed under section 3769.103 of

the Revised Code, as a tax, a sum equal to the following percentages of the total of all moneys wagered on live racing programs and shall separately compute and pay in the manner prescribed under section 3769.103 of the Revised Code, as a tax, a sum equal to the following percentages of the total of all money wagered on simulcast racing programs on that day:

- (1) One per cent of the first two hundred thousand dollars wagered, or any part of that amount;
- (2) Two per cent of the next one hundred thousand dollars wagered, or any part of that amount;
- (3) Three per cent of the next one hundred thousand dollars wagered, or any part of that amount;
- (4) Four per cent of all sums over four hundred thousand dollars wagered.

Except as otherwise provided in division (B) and subject to division (M) of this section, from the moneys paid to the tax commissioner by permit holders authorized to conduct harness or quarter horse racing, one-half of one per cent of all moneys wagered on that racing day shall be paid into the Ohio fairs fund; from the moneys paid to the tax commissioner by permit holders authorized to conduct harness racing, five-eighths of one per cent of all moneys wagered on that racing day shall be paid into the Ohio standardbred development fund; and from the moneys paid to the tax commissioner by permit holders authorized to conduct quarter horse racing, five-eighths of one per cent of all moneys wagered on that racing day shall be paid into the Ohio thoroughbred race fund to support quarter horse development and purses.

(D) In addition, subject to division (M) of this section, beginning on January 1, 1996, from the money paid to the tax commissioner as a tax under this section and division (A) of section 3769.087 of the Revised Code by harness horse permit holders, one-half of one per cent of the amount wagered on a racing day shall be paid into the Ohio standardbred development fund. Beginning January 1, 1998, the payment to the Ohio standardbred development fund required under this division does not apply to county agricultural societies or independent agricultural societies.

The total amount paid to the Ohio standardbred development fund under this division, division (C) of this section, and division (A) of section 3769.087 of the Revised Code and the total amount paid to the Ohio thoroughbred race fund to support quarter horse development and purses under this division and division (A) of that section shall not exceed by more than six per cent the total amount paid into the fund under this division, division (C) of this section, and division (A) of section 3769.087 of the Revised Code in the immediately preceding calendar year.

(E) Subject to division (M) of this section, from the money paid as a tax under this chapter by harness and quarter horse permit holders, one-quarter of one per cent of the total of all moneys wagered on a racing day by each permit holder shall be paid into the state racing commission operating fund created by section 3769.03 of the Revised Code. This division does not apply to county and independent fairs and agricultural societies.

(F) Except as otherwise provided in section 3769.089 of the Revised Code, each permit holder authorized to conduct harness racing shall pay to the harness horsemen's purse pool a sum equal to fifty per cent of the pari-mutuel revenues retained by the permit holder as a commission after payment of the state tax. This fifty per cent payment is to be in addition to the purse distribution from breakage specified in this section.

(G) In addition, each permit holder authorized to conduct harness racing shall be allowed to retain the odd cents of all redistribution to be made on all mutual contributions exceeding a sum equal to the next lowest multiple of ten.

Forty per cent of that portion of that total sum of such odd cents shall be used by the permit holder for purse money for Ohio sired, bred, and owned colts, for purse money for Ohio bred horses, and for increased purse money for horse races. Upon the formation of the corporation described in section 3769.21 of the Revised Code to establish a harness horsemen's health and retirement fund, twenty-five per cent of that portion of that total sum of odd cents shall be paid at the close of each racing day by the permit holder to that corporation to establish and fund the health and retirement fund. Until that corporation is formed, that twenty-five per cent shall be paid at the close of each racing day by the permit holder to the tax commissioner or the tax commissioner's agent in the county seat of the county in which the permit holder operates race meetings. The remaining thirty-five per cent of that portion of that total sum of odd cents shall be retained by the permit holder.

(H) In addition, each permit holder authorized to conduct thoroughbred racing shall be allowed to retain the odd cents of all redistribution to be made on all mutual contributions exceeding a sum equal to the next lowest multiple of ten. Twenty per cent of that portion of that total sum of such odd cents shall be used by the permit holder for increased purse money for horse races. Upon the formation of the corporation described in section 3769.21 of the Revised Code to establish a thoroughbred horsemen's health and retirement fund, forty-five per cent of that portion of that total sum of odd cents shall be paid at the close of each racing day by the permit holder to that corporation to establish and fund the health and retirement fund. Until that corporation is formed, that forty-five per cent shall be paid by the permit holder to the tax commissioner or the tax commissioner's agent in the county seat of the county in which the permit holder operates race meetings, at the close of each racing day. The remaining thirty-five per cent of that portion of that total sum of odd cents shall be retained by the permit holder.

(I) In addition, each permit holder authorized to conduct quarter horse racing shall be allowed to retain the odd cents of all redistribution to be made on all mutual contributions exceeding a sum equal to the next lowest multiple of ten, subject to a tax of twenty-five per cent on that portion of the total sum of such odd cents that is in excess of two thousand dollars during a calendar year, which tax shall be paid at the close of each racing day by the permit holder to the tax commissioner or the tax commissioner's agent in the county seat of the county within which the permit holder operates race meetings. Forty per cent of that portion of that total sum of such odd cents shall be used by the permit holder for increased purse money for horse races. The remaining thirty-five per cent of that portion of that total sum of odd cents shall be retained by the permit holder.

(J)(1) To encourage the improvement of racing facilities for the benefit of the public, breeders, and horse owners, and to increase the revenue to the state from the increase in pari-mutuel wagering resulting from those improvements, the taxes paid by a permit holder to the state as provided for in this chapter shall be reduced by three-fourths of one per cent of the total amount wagered for those permit holders who make capital improvements to existing race tracks or construct new race tracks. The percentage of the reduction that may be taken each racing day shall equal seventy-five per cent of the taxes levied under divisions (B) and (C) of this section and section 3769.087 of the Revised Code, and division (F)(2) of section 3769.26 of the Revised Code, as

applicable, divided by the calculated amount each fund should receive under divisions (B) and (C) of this section and section 3769.087 of the Revised Code, and division (F)(2) of section 3769.26 of the Revised Code and the reduction provided for in this division. If the resulting percentage is less than one, that percentage shall be multiplied by the amount of the reduction provided for in this division. Otherwise, the permit holder shall receive the full reduction provided for in this division. The amount of the allowable reduction not received shall be carried forward and applied against future tax liability. After any reductions expire, any reduction carried forward shall be treated as a reduction as provided for in this division.

If more than one permit holder is authorized to conduct racing at the facility that is being built or improved, the cost of the new race track or capital improvement shall be allocated between or among all the permit holders in the ratio that the permit holders' number of racing days bears to the total number of racing days conducted at the facility.

A reduction for a new race track or a capital improvement shall start from the day racing is first conducted following the date actual construction of the new race track or each capital improvement is completed and the construction cost has been approved by the racing commission, unless otherwise provided in this section. A reduction for a new race track or a capital improvement shall continue for a period of twenty-five years for new race tracks and for fifteen years for capital improvements if the construction of the capital improvement or new race track commenced prior to March 29, 1988, and for a period of ten years for new race tracks or capital improvements if the construction of the capital improvement or new race track commenced on or after March 29, 1988, but before June 6, 2001, or until the total tax reduction reaches seventy per cent of the approved cost of the new race track or capital improvement, as allocated to each permit holder, whichever occurs first. A reduction for a new race track or a capital improvement approved after June 6, 2001, shall continue until the total tax reduction reaches one hundred per cent of the approved cost of the new race track or capital improvement, as allocated to each permit holder.

A reduction granted for a new race track or a capital improvement, the application for which was approved by the racing commission after March 29, 1988, but before June 6, 2001, shall not commence nor shall the ten-year period begin to run until all prior tax reductions with respect to the same race track have ended. The total tax reduction because of capital improvements shall not during any one year exceed for all permit holders using any one track three-fourths of one per cent of the total amount wagered, regardless of the number of capital improvements made. Several capital improvements to a race track may be consolidated in an application if the racing commission approved the application prior to March 29, 1988. No permit holder may receive a tax reduction for a capital improvement approved by the racing commission on or after March 29, 1988, at a race track until all tax reductions have ended for all prior capital improvements approved by the racing commission under this section or section 3769.20 of the Revised Code at that race track. If there are two or more permit holders operating meetings at the same track, they may consolidate their applications. The racing commission shall notify the tax commissioner when the reduction of tax begins and when it ends.

Each fiscal year the racing commission shall submit a report to the tax commissioner, the office of budget and management, and the legislative service commission. The report shall identify each capital improvement project undertaken under this division and in progress at each race track,

indicate the total cost of each project, state the tax reduction that resulted from each project during the immediately preceding fiscal year, estimate the tax reduction that will result from each project during the current fiscal year, state the total tax reduction that resulted from all such projects at all race tracks during the immediately preceding fiscal year, and estimate the total tax reduction that will result from all such projects at all race tracks during the current fiscal year.

(2) In order to qualify for the reduction in tax, a permit holder shall apply to the racing commission in such form as the commission may require and shall provide full details of the new race track or capital improvement, including a schedule for its construction and completion, and set forth the costs and expenses incurred in connection with it. The racing commission shall not approve an application unless the permit holder shows that a contract for the new race track or capital improvement has been let under an unrestricted competitive bidding procedure, unless the contract is exempted by the controlling board because of its unusual nature. In determining whether to approve an application, the racing commission shall consider whether the new race track or capital improvement will promote the safety, convenience, and comfort of the racing public and horse owners and generally tend towards the improvement of racing in this state.

(3) If a new race track or capital improvement is approved by the racing commission and construction has started, the tax reduction may be authorized by the commission upon presentation of copies of paid bills in excess of one hundred thousand dollars or ten per cent of the approved cost, whichever is greater. After the initial authorization, the permit holder shall present copies of paid bills. If the permit holder is in substantial compliance with the schedule for construction and completion of the new race track or capital improvement, the racing commission may authorize the continuation of the tax reduction upon the presentation of the additional paid bills. The total amount of the tax reduction authorized shall not exceed the percentage of the approved cost of the new race track or capital improvement specified in division (J)(1) of this section. The racing commission may terminate any tax reduction immediately if a permit holder fails to complete the new race track or capital improvement, or to substantially comply with the schedule for construction and completion of the new race track or capital improvement. If a permit holder fails to complete a new race track or capital improvement, the racing commission shall order the permit holder to repay to the state the total amount of tax reduced. The normal tax paid by the permit holder shall be increased by three-fourths of one per cent of the total amount wagered until the total amount of the additional tax collected equals the total amount of tax reduced.

(4) As used in this section:

(a) "Capital improvement" means an addition, replacement, or remodeling of a structural unit of a race track facility costing at least one hundred thousand dollars, including, but not limited to, the construction of barns used exclusively for the race track facility, backstretch facilities for horsemen, paddock facilities, new pari-mutuel and totalizator equipment and appurtenances to that equipment purchased by the track, new access roads, new parking areas, the complete reconstruction, reshaping, and leveling of the racing surface and appurtenances, the installation of permanent new heating or air conditioning, roof replacement or restoration, installations of a permanent nature forming a part of the track structure, and construction of buildings that are located on a permit holder's premises. "Capital improvement" does not include the cost of replacement of equipment that is not permanently installed, ordinary repairs, painting, and maintenance required to keep a race track facility in ordinary

operating condition.

(b) "New race track" includes the reconstruction of a race track damaged by fire or other cause that has been declared by the racing commission, as a result of the damage, to be an inadequate facility for the safe operation of horse racing.

(c) "Approved cost" includes all debt service and interest costs that are associated with a capital improvement or new race track and that the racing commission approves for a tax reduction under division (J) of this section.

(5) The racing commission shall not approve an application for a tax reduction under this section if it has reasonable cause to believe that the actions or negligence of the permit holder substantially contributed to the damage suffered by the track due to fire or other cause. The racing commission shall obtain any data or information available from a fire marshal, law enforcement official, or insurance company concerning any fire or other damage suffered by a track, prior to approving an application for a tax reduction.

(6) The approved cost to which a tax reduction applies shall be determined by generally accepted accounting principles and verified by an audit of the permit holder's records upon completion of the project by the racing commission, or by an independent certified public accountant selected by the permit holder and approved by the commission.

(K) No other license or excise tax or fee, except as provided in sections 3769.01 to 3769.14 of the Revised Code, shall be assessed or collected from such licensee by any county, township, district, municipal corporation, or other body having power to assess or collect a tax or fee. That portion of the tax paid under this section by permit holders for racing conducted at and during the course of an agricultural exposition or fair, and that portion of the tax that would have been paid by eligible permit holders into the nursing home franchise permit fee fund as a result of racing conducted at and during the course of an agricultural exposition or fair, shall be deposited into the state treasury to the credit of the horse racing tax fund, which is hereby created for the use of the agricultural societies of the several counties in which the taxes originate. The state racing commission shall determine eligible permit holders for purposes of the preceding sentence, taking into account the breed of horse, the racing dates, the geographic proximity to the fair, and the best interests of Ohio racing. On the first day of any month on which there is money in the fund, the tax commissioner shall provide for payment to the treasurer of each agricultural society the amount of the taxes collected under this section upon racing conducted at and during the course of any exposition or fair conducted by the society.

(L) From the tax paid under this section by harness track permit holders, the tax commissioner shall pay into the Ohio thoroughbred race fund a sum equal to a percentage of the amount wagered upon which the tax is paid. The percentage shall be determined by the tax commissioner and shall be rounded to the nearest one-hundredth. The percentage shall be such that, when multiplied by the amount wagered upon which tax was paid by the harness track permit holders in the most recent year for which final figures are available, it results in a sum that substantially equals the same amount of tax paid by the tax commissioner during that year into the Ohio fairs fund from taxes paid by thoroughbred permit holders. This division does not apply to county and independent fairs and agricultural societies.

(M) Twenty-five per cent of the taxes levied on thoroughbred racing permit holders, harness



racing permit holders, and quarter horse racing permit holders under this section, division (A) of section 3769.087 of the Revised Code, and division (F)(2) of section 3769.26 of the Revised Code shall be paid into the nursing home franchise permit fee fund. The tax commissioner shall pay any money remaining, after the payment into the nursing home franchise permit fee fund and the reductions provided for in division (J) of this section and in section 3769.20 of the Revised Code, into the Ohio fairs fund, Ohio thoroughbred race fund, Ohio standardbred development fund, and state racing commission operating fund as prescribed in this section and division (A) of section 3769.087 of the Revised Code. The tax commissioner shall thereafter use and apply the balance of the money paid as a tax by any permit holder to cover any shortage in the accounts of such funds resulting from an insufficient payment as a tax by any other permit holder. Subject to section 3769.101 of the Revised Code, the moneys received by the tax commissioner shall be deposited monthly and paid by the tax commissioner into the funds to cover the total aggregate amount due from all permit holders to the funds, as calculated under this section and division (A) of section 3769.087 of the Revised Code, as applicable. If, after the payment into the nursing home franchise permit fee fund, sufficient funds are not available from the tax deposited by the tax commissioner to pay the required amounts into the Ohio fairs fund, Ohio standardbred development fund, Ohio thoroughbred race fund, and the state racing commission operating fund, the tax commissioner shall prorate on a proportional basis the amount paid to each of the funds. Any shortage to the funds as a result of a proration shall be applied against future deposits for the same calendar year when funds are available. After this application, the tax commissioner shall pay any remaining money paid as a tax by all permit holders into the nursing home franchise permit fee fund. This division does not apply to permit holders conducting racing at the course of an agricultural exposition or fair as described in division (K) of this section.

**Sec. 3769.083.** (A) As used in this section:

(1) An "accredited Ohio thoroughbred horse" means a horse conceived in this state and born in this state which is both of the following:

(a) Born of a mare that is domiciled in this state at the time of the horse's conception, that remains continuously in the state through the date on which the horse is born, and that is registered as required by the rules of the state racing commission;

(b) By a stallion that stands for breeding purposes only in this state in the year in which the horse is conceived, and that is registered as required by the rules of the commission.

(2) An "Ohio foaled horse" means a horse registered as required by the rules of the state racing commission which is either of the following:

(a) A horse born of a mare that enters this state before foaling and remains continuously in this state until the horse is born;

(b) A thoroughbred foal produced within the state by any broodmare shipped into the state to foal and be bred to a registered Ohio stallion. To qualify this foal as an Ohio foaled horse, the broodmare shall remain in this state one year continuously after foaling or continuously through foaling to the cover of the Ohio stallion, whichever is sooner. All horses previously registered as Ohio conceived and foaled shall be considered as Ohio foaled horses effective January 1, 1976.

Any thoroughbred mare may leave this state for periods of time for purposes of activities such as veterinary treatment or surgery, sales purposes, breeding purposes, racing purposes, and

similar activities if permission is granted by the state racing commission and the mare is returned to this state immediately upon the conclusion of the requested activity.

(3) "Horse," "stallion," "mare," or "foal" means a horse of the thoroughbred breed as distinguished from a horse of the standard breed or any other breed, and "race" means a race for thoroughbred horses conducted by a permit holder of the state racing commission.

(4) "Horse" includes animals of all ages and of both sexes.

(B) There is hereby created in the state treasury the Ohio thoroughbred race fund, to consist of moneys paid into it pursuant to sections 3769.08 and 3769.087 of the Revised Code. All investment earnings on the cash balances in the fund shall be credited to it. Moneys to the credit of the fund shall be distributed on order of the state racing commission. The commission, with the advice and assistance of the Ohio thoroughbred racing advisory committee, shall use the fund, except as provided in divisions (C)(2) and (3) and (D) of this section, to promote races and provide purses for races for horses in the following classes:

(1) Accredited Ohio thoroughbred horses;

(2) Ohio foaled horses.

Not less than ten nor more than twenty-five per cent of the total money to be paid from the fund for all types of races shall be allocated to races restricted to accredited Ohio thoroughbred horses. The commission may combine the classes of horses described in divisions (B)(1) and (2) of this section in one race, except in stakes races.

(C)(1) Each permit holder conducting thoroughbred races shall schedule races each week for horses in the classes named in division (B) of this section; the number of the races shall be prescribed by the state racing commission. The commission, pursuant to division (B) of this section, shall prescribe the class or classes of the races to be held by each permit holder and, with the advice of the Ohio thoroughbred racing advisory committee, shall fix the dates and conditions of the races and the amount of moneys to be paid from the Ohio thoroughbred race fund to be added in each race to the minimum purse established by the permit holder for the class of race held.

(2) The commission, with the advice of the Ohio thoroughbred racing advisory committee, may provide for stakes races to be run each year, and fix the number of stakes races and the time, place, and conditions under which each shall be run. The commission shall fix the amount of moneys to be paid from the Ohio thoroughbred race fund to be added to the purse provided for each stakes race by the permit holder, except that, in at least four stakes races each year, the commission shall require, if four stakes races can be arranged, that the permit holder conducting the stakes race provide no less than fifteen thousand dollars for the purse for the stakes race, and the commission shall provide moneys from the fund to be added to the purse in an amount equal to or greater than the amount provided by the permit holder. The commission may require a nominating, sustaining, and entry fee not to exceed one per cent of the money added from the fund for each horse in any stakes race, which fee shall be added to the purse for the race.

Stakes races where money is added from the Ohio thoroughbred race fund shall be open only to accredited Ohio thoroughbred horses and Ohio foaled horses. Twenty-five per cent of the total moneys to be paid from the fund for stakes races shall be allocated to races for only accredited Ohio thoroughbred horses. The commission may require a nominating, sustaining, and entry fee, not to exceed one per cent of the money added from the fund, for each horse in any of these stakes races.

These fees shall be accumulated by the commission and shall be paid out by the commission at its discretion as part of the purse money for additional races.

(3) The commission may pay from the Ohio thoroughbred race fund to the breeder of a horse of class (1) or (2) of division (B) of this section winning first, second, or third prize money of a purse for a thoroughbred race an amount not to exceed fifteen per cent of the first, second, or third prize money of the purse. For the purposes of this division, the term "breeder" shall be defined by rule of the commission.

The commission also may provide for stallion owners' awards in an amount equal to not less than three nor more than ten per cent of the first, second, or third place share of the purse. The award shall be paid to the owner of the stallion, provided that the stallion was standing in this state as provided in division (A)(1)(b) of this section at the time the horse placing first, second, or third was conceived.

(D) The state racing commission may provide for the expenditure of moneys from the Ohio thoroughbred race fund in an amount not to exceed in any one calendar year ten per cent of the total amount received in the account that year to provide for research projects directed toward improving the breeding, raising, racing, and health and soundness of thoroughbred horses in the state and toward education or promotion of the industry. Research for which the moneys from the fund may be used may include, but shall not be limited to, studies of pre-race blood testing, post-race testing, improvement of the breed, and nutrition.

(E) The state racing commission shall appoint qualified personnel as may be required to supervise registration of horses under the terms of this section, to determine the eligibility of horses for accredited Ohio thoroughbred races, Ohio foaled races, and the stakes races authorized by division (C)(2) of this section, and to assist the Ohio thoroughbred racing advisory committee and the commission in determining the conditions, class, and quality of the race program to be established under this section so as to carry out the purposes of this section. The personnel shall serve at the pleasure of the commission, and compensation shall be fixed by the commission. The compensation of the personnel and necessary expenses shall be paid out of the Ohio thoroughbred race fund.

The commission shall adopt rules as are necessary to carry out this section and shall administer the stakes race program and other races supported by the Ohio thoroughbred race fund in a manner best designed to aid in the development of the thoroughbred horse industry in the state, to upgrade the quality of horse racing in the state, and to improve the quality of horses conceived and foaled in the state.

(F) The state racing commission shall adopt rules regarding the maintenance and use of money collected for quarter horse development and purses under division (C) of section 3769.08 and division (A) of section 3769.087 of the Revised Code.

**Sec. 3769.087.** (A) In addition to the commission of eighteen per cent retained by each permit holder as provided in section 3769.08 of the Revised Code, each permit holder shall retain an additional amount equal to four per cent of the total of all moneys wagered on each racing day on all wagering pools other than win, place, and show, of which amount retained an amount equal to three per cent of the total of all moneys wagered on each racing day on those pools shall be paid in the manner prescribed under section 3769.103 of the Revised Code, as a tax. Subject to the restrictions contained in divisions (B), (C), and (M) of section 3769.08 of the Revised Code, from such

additional moneys paid to the tax commissioner:

(1) Four-sixths shall be allocated to fund distribution as provided in division (M) of section 3769.08 of the Revised Code.

(2) One-twelfth shall be paid into the Ohio fairs fund created by section 3769.082 of the Revised Code.

(3) One-twelfth of the additional moneys paid to the tax commissioner by thoroughbred racing permit holders shall be paid into the Ohio thoroughbred race fund created by section 3769.083 of the Revised Code.

(4) One-twelfth of the additional moneys paid to the tax commissioner by harness horse racing permit holders shall be paid to the Ohio standardbred development fund created by section 3769.085 of the Revised Code.

(5) One-sixth shall be paid into the state racing commission operating fund created by section 3769.03 of the Revised Code.

(6) One-twelfth of the additional moneys paid to the tax commissioner by quarterhorse racing permit holders shall be paid into the Ohio thoroughbred race fund created by section 3769.083 of the Revised Code to support quarterhorse development and purses.

The remaining one per cent that is retained of the total of all moneys wagered on each racing day on all pools other than win, place, and show, shall be retained by racing permit holders, and, except as otherwise provided in section 3769.089 of the Revised Code, racing permit holders shall use one-half for purse money and retain one-half.

(B) In addition to the commission of eighteen per cent retained by each permit holder as provided in section 3769.08 of the Revised Code and the additional amount retained by each permit holder as provided in division (A) of this section, each permit holder shall retain an additional amount equal to one-half of one per cent of the total of all moneys wagered on each racing day on all wagering pools other than win, place, and show. The additional amount retained under this division shall be paid in the manner prescribed under section 3769.103 of the Revised Code, as a tax. The tax commissioner shall pay the amount of the tax received under this division to the state racing commission operating fund created by section 3769.03 of the Revised Code.

(C) Unless otherwise agreed to by the video lottery sales agent and the applicable horsemen's association recognized by the state racing commission to represent such persons, within ninety days after September 29, 2013, for video lottery sales agents operating as such on September 29, 2013, or within six months after the date a video lottery sales agent begins operating as such for video lottery sales agents not operating as such on September 29, 2013, the state racing commission shall direct through rule that a percentage of the lottery sales agent's commission as determined by the state lottery commission for conducting video lottery terminal gaming on behalf of the state be paid to the state racing commission for the benefit of breeding and racing in this state. The percentage so determined shall not be less than nine per cent or more than eleven per cent of the video lottery terminal income, and shall be a sliding scale based upon capital expenditures necessary to build the video lottery sales agent's facility. The aggregate of one hundred per cent of video lottery terminal income minus the lottery sales agent's commission percentage as determined by the state lottery commission plus the percentage of the lottery sale agent's commission, as determined by the state racing commission or otherwise agreed to by the video lottery sales agent and the applicable

horsemen's association recognized by the state racing commission to represent such persons, for the benefit of breeding and racing in this state shall not exceed forty-five per cent of the video lottery terminal income. In addition, beginning July 1, 2013, the state lottery commission shall adopt a rule to require the lottery sales agent conducting video lottery terminal gaming on behalf of the state to disperse to the state lottery commission one-half of one per cent of such a lottery sales agent's commission for the purpose of providing funding support to appropriate state agencies for programs that provide for gambling addiction and other related addiction services. The state lottery commission's rule also may require the lottery sales agent conducting video lottery terminal gaming on behalf of the state to disperse to the state lottery commission an additional amount up to one-half of one per cent of such a lottery sales agent's commission for that purpose.

**Sec. 3769.089.** (A) As used in this chapter:

(1) "Racing day" means any day authorized under a permit holder's permit on which, at a simulcast host, either a live racing program is conducted as authorized under section 3769.07 of the Revised Code or a simulcast racing program is conducted as authorized under this section.

(2) "Live racing day" means a racing day on which a live racing program is conducted by the permit holder along with simulcasts of all other available racing programs from within this state and simulcast racing programs from outside this state as authorized under this section.

(3) "Live racing program" means a racing program consisting of no fewer than seven live horse races at thoroughbred tracks and nine live races at standardbred tracks and additional horse races simulcast from other facilities located either inside or outside this state, in which not more than two horse races on which pari-mutuel wagering is conducted are simulcast from facilities located outside this state. If only one racing meeting of a particular breed of horse is being held, no fewer than nine live horse races shall be held on a live racing day. If, during the course of a racing meeting at a standardbred track, the racing secretary of the permit holder determines that there is an insufficient number of entries to have a full field of eight horses for each of nine races on a live racing program, then the racing secretary of the permit holder, after consultation with the Ohio harness horsemens association, may reduce the number of live races on that live racing program, as the racing secretary may determine. The racing secretary shall not reduce the live racing program to less than seven live races. If during the course of a meeting at a thoroughbred track, the racing secretary of a permit holder determines that there is an insufficient number of entries to have a full field of eight horses for each of nine races on a live racing program, then the racing secretary of the permit holder, with the consent of the thoroughbred horsemens association, may reduce the number of live races on that live racing program, as the racing secretary may determine. The racing secretary shall not reduce the live racing program to less than seven live races. No more than seventeen races on which pari-mutuel wagering is conducted, including both live races and races simulcast from other facilities located either inside or outside this state, shall be part of a live racing program.

(4) "Simulcast host" means a track or enclosure in this state where, on a racing day, a permit holder is doing one or both of the following:

(a) Conducting a live racing program and offering this program for simulcasting to one or more simulcast guests and satellite facilities in this state;

(b) Receiving a simulcast racing program for simulcasting to one or more simulcast guests and satellite facilities in this state.

(5) "Simulcast guest" means any track or enclosure that is receiving from a simulcast host, on a day other than a racing day, a live racing program or a simulcast racing program.

(6) "Simulcast racing program" means all simulcasts of horse races to a simulcast host or simulcast guest on a racing day or on any other day on which pari-mutuel wagering is conducted, but does not include any simulcast horse races from inside or outside this state that are included in a simulcast host's live racing program.

(7) "Satellite facility" has the same meaning as in section 3769.25 of the Revised Code.

(8) "Collection and settlement agent" has the same meaning as in section 3769.0810 of the Revised Code.

(9) "Special racing event" means individual races in live racing programs or simulcast racing programs, and simulcast racing programs on special event days under division (C) of this section, conducted at facilities located outside this state for which the track, racing association, or state regulatory agency conducting such races charges a simulcast host a fee for the privilege of receiving a simulcast of such races into this state that is higher than the customary and regular fee charged for simulcast races because of the status or popularity of such races.

(B)(1)(a) The state racing commission shall, upon request by any permit holder, permit electronically televised simulcasts of horse races at the permit holder's track or enclosure on racing days authorized by the permit holder's permit. Except as provided in division (B) of this section, the commission shall not permit the simulcast of any simulcast racing program conducted at tracks or facilities located outside this state unless the out-of-state simulcast racing program is available at the same signal rate to all permit holders, whether serving as simulcast hosts or simulcast guests, and all satellite facilities, in this state open and operating on that day. A permit holder or satellite facility may inform the commission that it waives the right to receive the simulcast of a simulcast racing program or a race in a simulcast racing program on that day and in this event the simulcast racing program or simulcast race shall be available to all other simulcast hosts, simulcast guests, and satellite facilities open and operating in this state on that day.

(b) In order for a permit holder to offer simulcasts of horse races conducted at facilities located outside this state, the permit holder shall have conducted live racing programs during the immediately preceding calendar year on a number of days that is not less than the number of regular live racing days it conducted in calendar year 1991, not including additional racing days conducted in calendar year 1991 by the permit holder at a winterized facility under a permit issued under section 3769.07 of the Revised Code, as certified by the commission. In satisfying the foregoing requirement for live racing days during the immediately preceding calendar year, a permit holder may include the number of days on which live racing programs were conducted under a permit issued under section 3769.07 of the Revised Code for additional racing days at a winterized facility. In addition, in order for a permit holder to offer simulcasts of horse races conducted at facilities located outside this state, the permit holder shall offer all simulcasts of horse races conducted in this state made available to it.

In order for a permit holder to offer simulcasts of races conducted at race tracks located outside this state at the same time and during the hours in which the live races of a live racing program are being conducted at its track, a permit holder conducting a thoroughbred live racing program shall obtain the consent of the thoroughbred horsemens association and a permit holder conducting a harness live racing program shall obtain the consent of the Ohio harness horsemens

association. The consent of the horsemen's organization shall not be unreasonably withheld, and shall be consistent with the interest of preserving live racing in this state. If a horsemen's organization withholds its consent, the permit holder may file an objection with the commission, which shall promptly consider the objection and determine whether the horsemen's organization's action in withholding consent is without substantial merit and, if the commission so determines, shall authorize the permit holder to simulcast the simulcast racing programs. The determination of the commission is final. A permit holder, as a simulcast host, may offer simulcast racing programs at its track or enclosure of races conducted at tracks and facilities located outside this state prior to the commencement of, and following the conclusion of, its live races without obtaining the consent of a horsemen's organization under this division.

(c) Division (B)(1)(b) of this section remains in effect for each permit holder until the calendar year after that permit holder first receives a commission as a lottery sales agent for conducting video lottery terminal gaming on behalf of the state.

(2) Notwithstanding section 3769.07 of the Revised Code and unless otherwise agreed to by the applicable horsemen's association and the permit holder, beginning in the calendar year after the permit holder first receives video lottery terminal income, one of the following applies as determined on a yearly basis:

(a) If eleven per cent of the gross gaming revenue from video lottery terminals at the permit holder's facilities (either existing or relocated) in the previous calendar year exceeds fifteen million dollars, a permit holder shall conduct a minimum of one hundred twenty-five live racing days.

(b) If eleven per cent of the gross gaming revenue from video lottery terminals at the permit holder's facilities (either existing or relocated) in the previous calendar year exceeds eleven million dollars, but is less than or equal to fifteen million dollars, a permit holder shall conduct a minimum of one hundred live racing days or the number of racing days applied for by the permit holder in calendar year 2012, whichever is greater.

(c) If eleven per cent of the gross gaming revenue from video lottery terminals at the permit holder's facilities (either existing or relocated) in the previous calendar year is less than or equal to eleven million dollars, a permit holder shall conduct a minimum of seventy-five racing days or the number of racing days applied for by the permit holder for calendar year 2012, whichever is greater.

In no case shall the minimum number of racing days for any permit holder exceed one hundred twenty-five racing days.

(3) For the purposes of division (B)(2) of this section, for live racing conducted at a track with more than one permit, the minimum live racing days shall apply to those permits collectively and not as a single permit.

(4) In addition to the required live racing days, a permit holder shall simulcast a simulcast racing program on a minimum of three hundred sixty days each calendar year. The permit holder shall simulcast all simulcast racing programs conducted in this state and made available to the permit holder and simulcast racing programs conducted outside this state.

(5) The commission may make exception to the required minimum number of live racing days or simulcast racing program days in instances of natural disaster or other unexpected circumstances as defined by the commission, in its sole discretion. For any calendar year, the horsemen's association at each track may negotiate an agreement with the permit holder for that track

to reduce the number of live racing days at that track to less than the minimum live racing days required by division (B)(2)(a), (b), or (c) of this section, as applicable, subject to the approval of the commission. These negotiations shall not reduce the number of live racing days to less than fifty days per calendar year.

(6) To satisfy the requirement of live racing days, a permit holder may include the number of days on which live racing programs were conducted under a permit issued under section 3769.07 of the Revised Code for racing days authorized at a winterized facility.

(C) The commission shall allocate to each track one racing day for each permit holder during each calendar year for the conduct of a live racing program on which a permit holder may conduct as few as one live horse race, with the remainder of the horse races on that racing day on which pari-mutuel wagering is conducted as part of the live racing program being simulcast from other tracks and facilities located either inside or outside this state. In addition, the commission may allocate to each permit holder racing days on which it may as part of a live racing program simulcast more than two horse races from facilities located outside this state if the horse races involve a national wagering pool and pari-mutuel wagering is conducted on the national wagering pool, but on such a racing day there shall in no event be more than two horse races simulcast from facilities located outside this state included in a live racing program on which separate pari-mutuel wagering is conducted. As used in this division, "national wagering pool" means an interstate or intrastate common pari-mutuel wagering pool involving two or more selections covering two or more horse races conducted at tracks located inside or outside this state.

In emergency situations, the commission may authorize a live racing day at a track in which all horse races on that racing day on which pari-mutuel wagering is conducted are simulcast from tracks and facilities located either inside or outside this state with the consent of the thoroughbred horsemen's association for a track conducting a thoroughbred live racing program and with the consent of the Ohio harness horsemen's association for a track conducting a harness live racing program. If a horsemen's organization withholds its consent, the permit holder may file an objection with the commission, which shall promptly consider the objection and determine whether the horsemen's organization's action in withholding consent is without substantial merit and, if the commission so determines, shall authorize the permit holder to simulcast the simulcast racing programs. The determination of the commission is final.

(D) On any day that a racing day has been applied for at any track in this state, each track in this state may operate as either a simulcast host or a simulcast guest and may conduct, with the approval of the state racing commission, pari-mutuel wagering on all simulcasts of races conducted inside this state made available to it plus all simulcasts of races conducted at facilities located outside this state as determined by the simulcast hosts. Except as otherwise provided in this section, any simulcast host or simulcast guest may receive and conduct simulcast racing programs that feature any breed of horse at any time of day, as authorized by the commission. Those persons holding state fair, county fair, or other fair permits shall not receive a simulcast racing program on which pari-mutuel wagering is conducted, except that a holder of a permit issued under section 3769.07 of the Revised Code that has been authorized by the commission to conduct races of the state fair, a county fair, or other fair at a commercial track may receive and conduct simulcast racing programs as a simulcast host or simulcast guest at the same time in conjunction with the live racing program of the state fair,



county fair, or other fair permit holder conducted at its track.

The simulcast hosts, with the approval of the state racing commission, shall determine which simulcast racing programs offered by race tracks located outside this state will be simulcast at their tracks and at all simulcast hosts, simulcast guests, and satellite facilities in this state that are open and operating during the hours that the simulcast hosts are operating. Simulcast guests and satellite facilities shall receive all approved simulcast racing programs offered by simulcast hosts. In addition, a simulcast host and simulcast guest, with the approval of the commission, may also receive simulcast horse races and simulcast racing programs not agreed to by simulcast hosts.

A simulcast host that normally operates during the day only may serve as a simulcast host for only day-simulcast racing programs, which include all simulcast racing programs that commence at a track located outside this state on or before four p.m. A simulcast host that normally operates during the evening only may serve as a simulcast host for only evening-simulcast racing programs, which include all simulcast racing programs that commence at a track located outside this state on or after three p.m. A simulcast host that normally operates during the evening, but that under its permit conducts live racing programs during the day, may serve as a simulcast host for day-simulcast racing programs. A permit holder that is offering at its track simulcast racing programs that commence at a track located outside this state on or before four p.m. and simulcast racing programs that commence at a track located outside this state on or after three p.m. may serve as a simulcast host for both the day-simulcast racing program and the evening-simulcast racing program only if no other permit holder is serving as a simulcast host for the other simulcast racing programs. The times listed in this and the immediately following paragraphs are standard time as described in section 1.04 of the Revised Code and in the "Uniform Time Act of 1966," 80 Stat. 107, 15 U.S.C. 260 to 265.

A simulcast host that is conducting a live racing program and is simulcasting that program to other simulcast hosts and simulcast guests in this state shall receive from each simulcast host and each simulcast guest receiving the simulcast an intrastate simulcast fee of one and three-eighths per cent of the amounts wagered on such simulcast racing program at its facilities. The simulcast hosts and simulcast guests receiving such simulcast racing program shall pay the intrastate simulcast fee to the collection and settlement agent, and the fee shall be disbursed by the agent, at the time and in the manner provided in section 3769.0810 of the Revised Code.

(E)(1) The moneys wagered on simulcast racing programs on a racing day shall be separated from the moneys wagered on the live racing program on that racing day. From the moneys wagered on the simulcast races, each permit holder may retain as a commission the percentage of the amount wagered as specified in sections 3769.08 and 3769.087 of the Revised Code, as applicable, and shall pay, in the manner prescribed under section 3769.103 of the Revised Code, as a tax, the tax specified in sections 3769.08 and 3769.087 of the Revised Code, as applicable. From the tax collected, the tax commissioner shall make the distributions to the respective funds, and in the proper amounts, as required by sections 3769.08 and 3769.087 of the Revised Code, as applicable. Except as provided in division (E)(2) of this section, from the amount remaining after the payment of state taxes on the moneys wagered on live racing programs and on the moneys wagered on simulcast racing programs, a permit holder shall retain an amount equal to two and three-eighths per cent of the amount wagered on live racing programs and on intrastate and interstate simulcast racing programs simulcast at its track and on the amount wagered on the live racing programs and simulcast racing programs at a

satellite facility allocated to it under section 3769.26 of the Revised Code, as a fee to pay for those costs associated with the reception and transmission of simulcasts and the administrative cost of the conduct of live racing programs and simulcast racing programs. From the remaining balance, one-half shall be retained by the permit holder for purses. On a day when a permit holder conducts a live racing program, all purse money generated from wagering on live racing programs and on simulcast racing programs at its track shall be used for that permit holder's purse account. On a day when a permit holder operates as a simulcast host with no live racing program, or operates as a simulcast guest, all purse money generated from wagering on intrastate and interstate simulcast racing programs shall be paid to the state racing commission for deposit into the Ohio combined simulcast horse racing purse fund created under this section. In addition, on a day when a permit holder serves as a simulcast host for a satellite facility, all purse money generated from amounts wagered at the satellite facility allocated to the permit holder under section 3769.26 of the Revised Code shall be paid to the commission for deposit into the Ohio simulcast horse racing purse fund.

(2) If there are not four satellite facilities in operation in this state within one year after September 19, 1996, or if there are not seven satellite facilities in operation in this state within two years after September 19, 1996, or if there are not ten satellite facilities in operation in this state within three years after September 19, 1996, then in any such event the amount to be retained as a fee by the permit holder under division (E)(1) of this section shall be one and seven-eighths per cent until such time as the number of satellite facilities specified in division (E)(2) of this section are in operation. For good cause shown, the thoroughbred horsemens association and Ohio harness horsemens association may waive the requirements of division (E)(2) of this section or extend the date for compliance as to any year by filing a written notification with the state racing commission.

(3) If a simulcast racing program simulcast by a simulcast host at its track or enclosure and to other simulcast hosts, simulcast guests, and satellite facilities in this state is a special racing event, the permit holder offering the special racing event and other simulcast hosts, simulcast guests, and satellite facilities receiving the special racing event shall not retain the fee provided under division (E)(1) or (2) of this section but shall retain from the moneys wagered on the special racing event an amount equal to the fee charged by the track, racing association, or state regulatory agency simulcasting the special racing event to the simulcast host. From the remaining balance, one-half shall be retained by the permit holder for purses in the manner provided in division (E)(1) of this section.

A permit holder proposing to simulcast a special racing event as a simulcast host shall advise its horsemen's organization of the proposed schedule of the special racing event and obtain its consent to this schedule. The consent of the horsemen's organization shall not be unreasonably withheld and shall be consistent with the interest of preserving live racing in this state. If the horsemen's organization withholds its consent, the permit holder may file an objection with the state racing commission, which shall promptly consider the objection and determine whether the organization's action in withholding consent is without substantial merit and, if the commission so determines, shall authorize the permit holder to simulcast the special racing event. The determination of the commission is final.

(F) There is hereby created in the state treasury the Ohio combined simulcast horse racing purse fund, to consist of moneys paid into it by permit holders pursuant to division (E) of this section

and by satellite facilities pursuant to division (F) of section 3769.26 of the Revised Code. Moneys to the credit of the fund, including interest earned thereon, may be used by the commission for the costs of administering this division and the balance shall be distributed among permit holders no less frequently than monthly to each permit holder's purse account on order of the commission.

For each calendar year, permit holders at each track shall receive a share of each distribution of the Ohio combined simulcast horse racing purse fund in the same percentage, rounded to the nearest one-hundredth of the amount of each distribution, as the average total amount wagered at the track on racing days at which live racing programs were conducted, including the amount allocated to the track under section 3769.26 of the Revised Code for live races, during the five calendar years immediately preceding the year for which the distribution is made bears to the average annual total amount wagered at all tracks in the state operating under permits issued by the state racing commission under section 3769.07, 3769.071, or 3769.072 of the Revised Code on all racing days at which live racing programs were conducted, including the amount allocated to the tracks under section 3769.26 of the Revised Code for live races, during the five calendar years immediately preceding the year for which the distribution is made. By the thirty-first day of January of each year the commission shall calculate the share of the permit holders at each track for that year, shall enter the share percentages in its official records, and shall notify all permit holders of the share percentages of all tracks for that calendar year.

The permit holders at each track, with the approval of the commission, shall allocate their share of the fund as distributed to the purse account of each permit holder for each race meeting.

The commission shall cause to be kept accurate records of its administration of the fund, including all administrative expenses incurred by it and charged to the fund, and of distributions to permit holders. These records are public records available for inspection at any time during the regular business hours of the commission by any permit holder or horsemen's organization, by an authorized agent of the permit holder or horsemen's organization, or by any other person.

(G) Upon the approval of the commission, a permit holder conducting live racing programs may transmit electronically televised simulcasts of horse races conducted at the permit holder's track to racing associations, tracks, and facilities located outside this state for the conduct of pari-mutuel wagering thereon, at the times, on the terms, and for the fee agreed upon by the permit holder and the receiving racing association, track, or facility. From the fees paid to the permit holder for such simulcasts, a permit holder shall retain for the costs of administration a fee in an amount equal to one per cent of the amount wagered on the races simulcast by the permit holder. From the remaining balance of the fee, one-half shall be retained by the permit holder for purses, except that notwithstanding the fee arrangement between the permit holder and the receiving racing association, track, or facility, the permit holder shall deposit into its purse account not less than an amount equal to three-fourths of one per cent of the amount wagered at racing associations, tracks, and facilities located outside the state on the races simulcast by the permit holder.

All televised simulcasts of horse races conducted in this state to racing associations, tracks, and facilities located outside this state shall comply with the "Interstate Horse Racing Act of 1978," 92 Stat. 1811, 15 U.S.C.A. 3001 to 3007. The consent of the horsemen's organization at the track of the permit holder applying to the commission to simulcast horse races conducted at the permit holder's track to racing associations, tracks, and facilities located outside this state shall be consistent

with the interest of preserving live racing.

(H)(1) The state racing commission may authorize any permit holder that is authorized to conduct live horse racing on racing days and that conducts pari-mutuel wagering on simulcasts of horse races under this section that are conducted at race tracks either inside or outside this state to conduct, supervise, and participate in interstate and intrastate common pari-mutuel wagering pools on those races in the manner provided in division (H) of this section. Except as otherwise expressly provided in division (H) of this section or in the rules of the state racing commission, the provisions of this chapter that govern pari-mutuel wagering apply to interstate or intrastate common pari-mutuel wagering pools.

(2) Subject to the approval of the state racing commission, the types of wagering, calculation of the commission retained by the permit holder, tax rates, distribution of winnings, and rules of racing in effect for pari-mutuel wagering pools at the host track may govern wagers placed at a receiving track in this state and merged into an interstate or intrastate common pari-mutuel wagering pool. Breakage from interstate or intrastate common pari-mutuel wagering pools shall be calculated in accordance with the rules that govern the host track and shall be distributed among the tracks participating in the interstate or intrastate common wagering pool in a manner agreed to by the participating tracks and the host track. An interstate common pari-mutuel wagering pool formed under division (H)(3) of this section is subject to that division rather than to division (H)(2) of this section.

(3) Subject to the approval of the state racing commission, an interstate common pari-mutuel wagering pool may be formed between a permit holder and one or more receiving tracks located in states other than the state in which the host track is located. The commission may approve types of wagering, calculation of the commission retained by the permit holder, tax rates, distribution of winnings, rules of racing, and calculation of breakage for such an interstate common pari-mutuel wagering pool that differ from those that would otherwise be applied in this state under this chapter but that are consistent for all tracks participating in the interstate common pari-mutuel wagering pool formed under division (H)(3) of this section.

(4) As used in division (H) of this section:

(a) "Host track" means a track where live horse races are conducted and offered for simulcasting to receiving tracks.

(b) "Receiving track" means a track where simulcasts of races from a host track are displayed and wagered on.

(I) Each permit holder is responsible for paying all costs associated with the up-link for, and reception of, simulcasts, and the conduct and operation of simulcast racing programs, for all fees and costs associated with serving as a simulcast host or simulcast guest, and for any required fees payable to the tracks, racing associations, or state regulatory agencies where simulcast racing is conducted at tracks located outside this state.

(J) No license, fee, or excise tax, other than as specified in division (E) of this section, shall be assessed upon or collected from a permit holder or the owners of a permit holder in connection with, or pertaining to, the operation and conduct of simulcast racing programs in this state, by any county, township, municipal corporation, district, or other body having the authority to assess or collect a tax or fee.

(K)(1) Permit holders operating tracks within the same county or adjacent counties that are conducting simulcast racing programs under this section may enter into agreements regarding the conduct of simulcast racing programs at their respective tracks and the sharing of the retained commissions therefrom, for such periods of time, upon such terms and conditions, and subject to such rights and obligations, as the contracting permit holders consider appropriate under the circumstances. Permit holders shall notify the state racing commission of their entry into an agreement pursuant to this division, the names of the permit holders that are parties to the agreement, and the length of time the agreement shall be in effect.

(2) Permit holders and the thoroughbred horsemen's association and Ohio harness horsemen's association may agree to do any of the following:

(a) Increase or reduce the fees and amounts to be retained by the permit holders under this section;

(b) Increase or reduce the fees and amounts to be allocated to the purse accounts of permit holders under this section;

(c) Increase or reduce the fees to be paid between and among simulcast hosts and simulcast guests under this section and under division (C) of section 3769.0810 of the Revised Code;

(d) Modify, suspend, or waive the requirements set forth in division (B) of this section as to any permit holder or as to all permit holders.

All permit holders and both horsemen's organizations shall approve such agreement. Any agreement entered into under division (K)(2) of this section shall set forth the effective date of any such increase or reduction, and the terms and provisions of the agreement, and a copy of the agreement shall be filed with the state racing commission.

**Sec. 3769.101.** (A) For the purposes of receiving, distributing, and accounting for revenue received from the taxes levied by sections 3769.08, 3769.087, and 3769.26 of the Revised Code, there is hereby created in the state treasury the horse-racing tax revenue fund.

(B) All moneys collected from the taxes imposed by sections 3769.08, 3769.087, and 3769.26 of the Revised Code shall be deposited into the horse-racing tax revenue fund.

(C) On or before the fifteenth day of each month, the tax commissioner shall pay into the nursing home franchise permit fee fund, Ohio fairs fund, Ohio thoroughbred race fund, Ohio standardbred development fund, and state racing commission operating fund created under this chapter the amounts required by sections 3769.08, 3769.087, and 3769.26 of the Revised Code based on amounts received in the preceding month.

**Sec. 3770.01.** (A) There is hereby created the state lottery commission consisting of nine members appointed by the governor with the advice and consent of the senate. No more than five members of the commission shall be members of the same political party. Of the additional and new appointments made to the commission pursuant to the amendment of August 1, 1980, three shall be for terms ending August 1, 1981, three shall be for terms ending August 1, 1982, and three shall be for terms ending August 1, 1983. Thereafter, terms of office shall be for three years, each term ending on the same day of the same month of the year as did the term which it succeeds.

(B) Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the

remainder of that term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(C) All members of the commission shall be citizens of the United States and residents of this state. The members of the commission shall represent the various geographic regions of the state. No member of the commission shall have any pecuniary interest in any contract or license awarded by the commission. One person appointed as a member of the commission shall have experience or training in the area of problem gambling or other addictions and in assistance to recovering gambling or other addicts. Each person appointed as a member of the commission, except the member appointed as having experience or training in the area of problem gambling or other addictions and in assistance to recovering gambling or other addicts, shall have prior experience or education in business administration, management, sales, marketing, or advertising.

(D) The commission shall elect annually one of its members to serve as chairperson for a term of one year. Election as chairperson shall not extend a member's appointive term. Each member of the commission shall receive an annual salary of five thousand dollars, payable in monthly installments. Each member of the commission also shall receive the member's actual and necessary expenses incurred in the discharge of the member's official duties.

(E) Each member of the commission, before entering upon the discharge of the member's official duties, shall give a bond, payable to the treasurer of state, in the sum of ten thousand dollars with sufficient sureties to be approved by the treasurer of state, which bond shall be filed with the secretary of state.

(F) The governor may remove any member of the commission for malfeasance, misfeasance, or nonfeasance in office, giving the member a copy of the charges against the member and affording the member an opportunity to be publicly heard in person or by counsel in the member's own defense upon not less than ten days' notice. If the member is removed, the governor shall file in the office of the secretary of state a complete statement of all charges made against the member and the governor's finding on the charges, together with a complete report of the proceedings, and the governor's decision on the charges is final.

(G) The commission shall maintain offices at locations in the state as it may consider necessary for the efficient performance of its functions. The director shall maintain an office in Columbus to coordinate the activities of the state lottery commission with other state departments.

**Sec. 3770.03.** (A) The state lottery commission shall promulgate rules under which a statewide lottery may be conducted, which includes, and since the original enactment of this section has included, the authority for the commission to operate video lottery terminal games. Any reference in this chapter to tickets shall not be construed to in any way limit the authority of the commission to operate video lottery terminal games. Nothing in this chapter shall restrict the authority of the commission to promulgate rules related to the operation of games utilizing video lottery terminals as described in section 3770.21 of the Revised Code. The rules shall be promulgated pursuant to Chapter 119. of the Revised Code, except that instant game rules shall be promulgated pursuant to section 111.15 of the Revised Code but are not subject to division (D) of that section. Subjects covered in these rules shall include, but need not be limited to, the following:

(1) The type of lottery to be conducted;

(2) The prices of tickets in the lottery;

(3) The number, nature, and value of prize awards, the manner and frequency of prize drawings, and the manner in which prizes shall be awarded to holders of winning tickets.

(B) The commission shall promulgate rules, in addition to those described in division (A) of this section, pursuant to Chapter 119. of the Revised Code under which a statewide lottery and statewide joint lottery games may be conducted. Subjects covered in these rules shall include, but not be limited to, the following:

(1) The locations at which lottery tickets may be sold and the manner in which they are to be sold. These rules may authorize the sale of lottery tickets by commission personnel or other licensed individuals from traveling show wagons at the state fair, and at any other expositions the director of the commission considers acceptable. These rules shall prohibit commission personnel or other licensed individuals from soliciting from an exposition the right to sell lottery tickets at that exposition, but shall allow commission personnel or other licensed individuals to sell lottery tickets at an exposition if the exposition requests commission personnel or licensed individuals to do so. These rules may also address the accessibility of sales agent locations to commission products in accordance with the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C.A. 12101 et seq.

(2) The manner in which lottery sales revenues are to be collected, including authorization for the director to impose penalties for failure by lottery sales agents to transfer revenues to the commission in a timely manner;

(3) The amount of compensation to be paid to licensed lottery sales agents;

(4) The substantive criteria for the licensing of lottery sales agents consistent with section 3770.05 of the Revised Code, and procedures for revoking or suspending their licenses consistent with Chapter 119. of the Revised Code. If circumstances, such as the nonpayment of funds owed by a lottery sales agent, or other circumstances related to the public safety, convenience, or trust, require immediate action, the director may suspend a license without affording an opportunity for a prior hearing under section 119.07 of the Revised Code.

(5) Special game rules to implement any agreements signed by the governor that the director enters into with other lottery jurisdictions under division (J) of section 3770.02 of the Revised Code to conduct statewide joint lottery games. The rules shall require that the entire net proceeds of those games that remain, after associated operating expenses, prize disbursements, lottery sales agent bonuses, commissions, and reimbursements, and any other expenses necessary to comply with the agreements or the rules are deducted from the gross proceeds of those games, be transferred to the lottery profits education fund under division (B) of section 3770.06 of the Revised Code.

(6) Any other subjects the commission determines are necessary for the operation of video lottery terminal games, including the establishment of any fees, fines, payment schedules, or the establishment of a voluntary exclusion program.

(C) Chapter 2915. of the Revised Code does not apply to, affect, or prohibit lotteries conducted pursuant to this chapter.

(D) The commission may promulgate rules, in addition to those described in divisions (A) and (B) of this section, that establish standards governing the display of advertising and celebrity images on lottery tickets and on other items that are used in the conduct of, or to promote, the

statewide lottery and statewide joint lottery games. Any revenue derived from the sale of advertising displayed on lottery tickets and on those other items shall be considered, for purposes of section 3770.06 of the Revised Code, to be related proceeds in connection with the statewide lottery or gross proceeds from statewide joint lottery games, as applicable.

(E)(1) The commission shall meet with the director at least once each month and shall convene other meetings at the request of the chairperson or any five of the members. No action taken by the commission shall be binding unless at least five of the members present vote in favor of the action. A written record shall be made of the proceedings of each meeting and shall be transmitted forthwith to the governor, the president of the senate, the senate minority leader, the speaker of the house of representatives, and the house minority leader.

(2) The director shall present to the commission a report each month, showing the total revenues, prize disbursements, and operating expenses of the state lottery for the preceding month. As soon as practicable after the end of each fiscal year, the commission shall prepare and transmit to the governor and the general assembly a report of lottery revenues, prize disbursements, and operating expenses for the preceding fiscal year and any recommendations for legislation considered necessary by the commission.

**Sec. 3770.05.** (A) As used in this section, "person" means any individual, association, corporation, limited liability company, partnership, club, trust, estate, society, receiver, trustee, person acting in a fiduciary or representative capacity, instrumentality of the state or any of its political subdivisions, or any other business entity or combination of individuals meeting the requirements set forth in this section or established by rule or order of the state lottery commission.

(B) The director of the state lottery commission may license any person as a lottery sales agent.

Before issuing any license to a lottery sales agent, the director shall consider all of the following:

(1) The financial responsibility and security of the applicant and the applicant's business or activity;

(2) The accessibility of the applicant's place of business or activity to the public;

(3) The sufficiency of existing licensed agents to serve the public interest;

(4) The volume of expected sales by the applicant;

(5) Any other factors pertaining to the public interest, convenience, or trust.

(C) Except as otherwise provided in division (F) of this section, the director of the state lottery commission may refuse to grant, or may suspend or revoke, a license if the applicant or licensee:

(1) Has been convicted of a felony or has been convicted of a crime involving moral turpitude;

(2) Has been convicted of an offense that involves illegal gambling;

(3) Has been found guilty of fraud or misrepresentation in any connection;

(4) Has been found to have violated any rule or order of the commission; or

(5) Has been convicted of illegal trafficking in supplemental nutrition assistance program benefits.

(D) Except as otherwise provided in division (F) of this section, the director of the state



lottery commission may refuse to grant, or may suspend or revoke, a license if the applicant or licensee is a corporation or other business entity, and any of the following applies:

(1) Any of the directors, officers, managers, or controlling shareholders has been found guilty of any of the activities specified in divisions (C)(1) to (5) of this section;

(2) It appears to the director of the state lottery commission that, due to the experience, character, or general fitness of any director, officer, manager, or controlling shareholder, the granting of a license as a lottery sales agent would be inconsistent with the public interest, convenience, or trust;

(3) The corporation or other business entity is not the owner or lessee of the business at which it would conduct a lottery sales agency pursuant to the license applied for;

(4) Any person, firm, association, or corporation other than the applicant or licensee shares or will share in the profits of the applicant or licensee, other than receiving dividends or distributions as a shareholder, or participates or will participate in the management of the affairs of the applicant or licensee.

(E)(1) The director of the state lottery commission shall refuse to grant a license to an applicant for a lottery sales agent license and shall revoke a lottery sales agent license if the applicant or licensee is or has been convicted of a violation of division (A) or (C)(1) of section 2913.46 of the Revised Code.

(2) The director shall refuse to grant a license to an applicant for a lottery sales agent license that is a corporation and shall revoke the lottery sales agent license of a corporation if the corporation is or has been convicted of a violation of division (A) or (C)(1) of section 2913.46 of the Revised Code.

(F) The director of the state lottery commission shall request the bureau of criminal identification and investigation, the department of public safety, or any other state, local, or federal agency to supply the director with the criminal records of any applicant for a lottery sales agent license, and may periodically request the criminal records of any person to whom a lottery sales agent license has been issued. At or prior to the time of making such a request, the director shall require an applicant or licensee to obtain fingerprint impressions on fingerprint cards prescribed by the superintendent of the bureau of criminal identification and investigation at a qualified law enforcement agency, and the director shall cause those fingerprint cards to be forwarded to the bureau of criminal identification and investigation, to the federal bureau of investigation, or to both bureaus. The commission shall assume the cost of obtaining the fingerprint cards.

The director shall pay to each agency supplying criminal records for each investigation a reasonable fee, as determined by the agency.

The commission may adopt uniform rules specifying time periods after which the persons described in divisions (C)(1) to (5) and (D)(1) to (4) of this section may be issued a license and establishing requirements for those persons to seek a court order to have records sealed in accordance with law.

(G)(1) Each applicant for a lottery sales agent license shall do both of the following:

(a) Pay fees to the state lottery commission, if required by rule adopted by the director under Chapter 119. of the Revised Code and the controlling board approves the fees;

(b) Prior to approval of the application, obtain a surety bond in an amount the director

determines by rule adopted under Chapter 119. of the Revised Code or, alternatively, with the director's approval, deposit the same amount into a dedicated account for the benefit of the state lottery. The director also may approve the obtaining of a surety bond to cover part of the amount required, together with a dedicated account deposit to cover the remainder of the amount required. The director also may establish an alternative program or policy, with the approval of the commission by rule adopted under Chapter 119. of the Revised Code, that otherwise ensures the lottery's financial interests are adequately protected. If such an alternative program or policy is established, an applicant or lottery sales agent, subject to the director's approval, may be permitted to participate in the program or proceed under that policy in lieu of providing a surety bond or dedicated amount.

A surety bond may be with any company that complies with the bonding and surety laws of this state and the requirements established by rules of the commission pursuant to this chapter. A dedicated account deposit shall be conducted in accordance with policies and procedures the director establishes.

A surety bond, dedicated account, other established program or policy, or any combination of these resources, as applicable, may be used to pay for the lottery sales agent's failure to make prompt and accurate payments for lottery ticket sales, for missing or stolen lottery tickets, for damage to equipment or materials issued to the lottery sales agent, or to pay for expenses the commission incurs in connection with the lottery sales agent's license.

(2) A lottery sales agent license is effective for at least one year, but not more than three years.

A licensed lottery sales agent, on or before the date established by the director, shall renew the agent's license and provide at that time evidence to the director that the surety bond, dedicated account deposit, or both, required under division (G)(1)(b) of this section has been renewed or is active, whichever applies.

Before the commission renews a lottery sales agent license, the lottery sales agent shall submit a renewal fee to the commission, if one is required by rule adopted by the director under Chapter 119. of the Revised Code and the controlling board approves the renewal fee. The renewal fee shall not exceed the actual cost of administering the license renewal and processing changes reflected in the renewal application. The renewal of the license is effective for at least one year, but not more than three years.

(3) A lottery sales agent license shall be complete, accurate, and current at all times during the term of the license. Any changes to an original license application or a renewal application may subject the applicant or lottery sales agent, as applicable, to paying an administrative fee that shall be in an amount that the director determines by rule adopted under Chapter 119. of the Revised Code, and that the controlling board approves, and that shall not exceed the actual cost of administering and processing the changes to an application.

(4) The relationship between the commission and a lottery sales agent is one of trust. A lottery sales agent collects funds on behalf of the commission through the sale of lottery tickets for which the agent receives a compensation.

(H) Pending a final resolution of any question arising under this section, the director of the state lottery commission may issue a temporary lottery sales agent license, subject to the terms and conditions the director considers appropriate.

(1) If a lottery sales agent's rental payments for the lottery sales agent's premises are determined, in whole or in part, by the amount of retail sales the lottery sales agent makes, and if the rental agreement does not expressly provide that the amount of those retail sales includes the amounts the lottery sales agent receives from lottery ticket sales, only the amounts the lottery sales agent receives as compensation from the state lottery commission for selling lottery tickets shall be considered to be amounts the lottery sales agent receives from the retail sales the lottery sales agent makes, for the purpose of computing the lottery sales agent's rental payments.

**Sec. 3770.07.** (A)(1) Except as provided in division (A)(2) of this section, lottery prize awards shall be claimed by the holder of the winning lottery product, or by the executor or administrator, or the trustee of a trust, of the estate of a deceased holder of a winning lottery product, in a manner to be determined by the state lottery commission, within one hundred eighty days after the date on which the prize award was announced if the lottery game is an online game, and within one hundred eighty days after the close of the game if the lottery game is an instant game.

Any lottery prize award with a value that meets or exceeds the reportable winnings amounts set by 26 U.S.C. 6041, or a subsequent analogous section of the Internal Revenue Code, shall not be claimed by or paid to any person, as defined in section 1.59 of the Revised Code or as defined by rule or order of the state lottery commission, until the name, address, and social security number of each beneficial owner of the prize award are documented for the commission. Except when a beneficial owner otherwise consents in writing, in the case of a claim for a lottery prize award made by one or more beneficial owners using a trust, the name, address, and social security number of each such beneficial owner in the commission's records as a result of such a disclosure are confidential and shall not be subject to inspection or copying under section 149.43 of the Revised Code as a public record.

Except as otherwise provided in division (A)(1) of this section or as otherwise provided by law, the name and address of any individual claiming a lottery prize award are subject to inspection or copying under section 149.43 of the Revised Code as a public record.

(2) An eligible person serving on active military duty in any branch of the United States armed forces during a war or national emergency declared in accordance with federal law may submit a delayed claim for a lottery prize award. The eligible person shall do so by notifying the state lottery commission about the claim not later than the five hundred fortieth day after the date on which the prize award was announced if the lottery game is an online game or after the date on which the lottery game closed if the lottery game is an instant game.

(3) If no valid claim to a lottery prize award is made within the prescribed period, the prize money, the cost of goods and services awarded as prizes, or, if goods or services awarded as prizes are resold by the state lottery commission, the proceeds from their sale shall be returned to the state lottery fund and distributed in accordance with section 3770.06 of the Revised Code.

(4) The state lottery commission may share with other governmental agencies the name, address, and social security number of a beneficial owner disclosed to the commission under division (A)(1) of this section, as authorized under sections 3770.071 and 3770.073 of the Revised Code. Any shared information as disclosed pursuant to those sections that is made confidential by division (A)(1) of this section remains confidential and shall not be subject to inspection or copying under section 149.43 of the Revised Code as a public record unless the applicable beneficial owner otherwise

provides written consent.

(5) As used in this division:

(a) "Eligible person" means a person who is entitled to a lottery prize award and who falls into either of the following categories:

(i) While on active military duty in this state, the person, as the result of a war or national emergency declared in accordance with federal law, is transferred out of this state before the one hundred eightieth day after the date on which the winner of the lottery prize award is selected.

(ii) While serving in the reserve forces in this state, the person, as the result of a war or national emergency declared in accordance with federal law, is placed on active military duty and is transferred out of this state before the expiration of the one hundred eightieth day after the date on which the prize drawing occurs for an online game or before the expiration of the one hundred eightieth day following the close of an instant game as determined by the commission.

(b) "Active military duty" means that a person is covered by the "Servicemembers Civil Relief Act," 117 Stat. 2835 (2003), 50 U.S.C. 501 et seq., as amended, or the "Uniformed Services Employment and Reemployment Rights Act of 1994," 108 Stat. 3149, 38 U.S.C. 4301 et seq., as amended.

(c) "Each beneficial owner" means the ultimate recipient or, if there is more than one, each ultimate recipient of a lottery prize award.

(B) If a prize winner, as defined in section 3770.10 of the Revised Code, is under eighteen years of age, or is under some other legal disability, and the prize money or the cost of goods or services awarded as a prize exceeds one thousand dollars, the director of the state lottery commission shall order that payment be made to the order of the legal guardian of that prize winner. If the amount of the prize money or the cost of goods or services awarded as a prize is one thousand dollars or less, the director may order that payment be made to the order of the adult member, if any, of that prize winner's family legally responsible for the care of that prize winner.

(C) No right of any prize winner, as defined in section 3770.10 of the Revised Code, to a prize award shall be the subject of a security interest or used as collateral.

(D)(1) No right of any prize winner, as defined in section 3770.10 of the Revised Code, to a prize award shall be assignable except as follows: when the payment is to be made to the executor or administrator, or the trustee of a trust, of the estate of a prize winner; when the award of a prize is disputed, any person may be awarded a prize award to which another has claimed title, pursuant to the order of a court of competent jurisdiction; when a person is awarded a prize award to which another has claimed title, pursuant to the order of a federal bankruptcy court under Title 11 of the United States Code; or as provided in sections 3770.10 to 3770.14 of the Revised Code.

(2)(a) No right of any prize winner, as defined in section 3770.10 of the Revised Code, to a prize award with a remaining unpaid balance of less than one hundred thousand dollars shall be subject to garnishment, attachment, execution, withholding, or deduction except as provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code or when the director is to make a payment pursuant to section 3770.071 or 3770.073 of the Revised Code.

(b) No right of any prize winner, as defined in section 3770.10 of the Revised Code, to a prize award with an unpaid balance of one hundred thousand dollars or more shall be subject to garnishment, attachment, execution, withholding, or deduction except as follows: as provided in

sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code; when the director is to make a payment pursuant to section 3770.071 or 3770.073 of the Revised Code; or pursuant to the order of a court of competent jurisdiction located in this state in a proceeding in which the state lottery commission is a named party, in which case the garnishment, attachment, execution, withholding, or deduction pursuant to the order shall be subordinate to any payments to be made pursuant to section 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, 3770.071, or 3770.073 of the Revised Code.

(3) The state lottery commission may adopt and amend rules pursuant to Chapter 119. of the Revised Code as necessary to implement division (D) of this section, to provide for payments from prize awards subject to garnishment, attachment, execution, withholding, or deduction, and to comply with any applicable requirements of federal law.

(4) Upon making payments from a prize award as required by division (D) of this section, the director and the state lottery commission are discharged from all further liability for those payments, whether they are made to an executor, administrator, trustee, judgment creditor, or another person, or to the prize winner, as defined in section 3770.10 of the Revised Code.

(5) The state lottery commission shall adopt rules pursuant to section 3770.03 of the Revised Code concerning the payment of prize awards upon the death of a prize winner, as defined in section 3770.10 of the Revised Code. Upon the death of a prize winner, the remainder of the prize winner's prize award, to the extent it is not subject to a transfer agreement under sections 3770.10 to 3770.14 of the Revised Code, may be paid to the executor, administrator, or trustee in the form of a discounted lump sum cash settlement.

(E) No lottery prize award shall be awarded to or for any officer or employee of the state lottery commission, any officer or employee of the auditor of state actively auditing, coordinating, or observing commission drawings, or any blood relative or spouse of such an officer or employee of the commission or auditor of state living as a member of the officer's or employee's household, nor shall any such officer, employee, blood relative, or spouse attempt to claim a lottery prize award.

(F) The director may prohibit vendors to the state lottery commission and their employees from being awarded a lottery prize award.

(G) Upon the payment of prize awards pursuant to a provision of this section, other than a provision of division (D) of this section, the director and the state lottery commission are discharged from all further liability for their payment. Installment payments of lottery prize awards shall be paid by official check or warrant, and they shall be sent by mail delivery to the prize winner's address within the United States or by electronic funds transfer to an established bank account located within the United States, or the prize winner may pick them up at an office of the commission.

**Sec. 3772.02.** (A) There is hereby created the Ohio casino control commission described in Section 6(C)(4) of Article XV, Ohio Constitution.

(B) The commission shall consist of seven members appointed within one month of September 10, 2010, by the governor with the advice and consent of the senate. The governor shall forward all appointments to the senate within twenty-four hours.

(1) Each commission member is eligible for reappointment at the discretion of the governor. No commission member shall be appointed for more than three terms in total.

(2) Each commission member shall be a resident of Ohio.

(3) At least one commission member shall be experienced in law enforcement and criminal investigation.

(4) At least one commission member shall be a certified public accountant experienced in accounting and auditing.

(5) At least one commission member shall be an attorney admitted to the practice of law in Ohio.

(6) At least one commission member shall be a resident of a county where one of the casino facilities is located.

(7) Not more than four commission members shall be of the same political party.

(8) No commission member shall have any affiliation with an Ohio casino operator or facility.

(C) Commission members shall serve four-year terms, except that when the governor makes initial appointments to the commission under this chapter, the governor shall appoint three members to serve four-year terms with not more than two such members from the same political party, two members to serve three-year terms with such members not being from the same political party, and two members to serve two-year terms with such members not being from the same political party.

(D) Each commission member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the unexpired term. Any member shall continue in office after the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. A vacancy in the commission membership shall be filled in the same manner as the original appointment.

(E) The governor shall select one member to serve as chairperson and the commission members shall select one member from a different party than the chairperson to serve as vice-chairperson. The governor may remove and replace the chairperson at any time. No such member shall serve as chairperson for more than six successive years. The vice-chairperson shall assume the duties of the chairperson in the absence of the chairperson. The chairperson and vice-chairperson shall perform but shall not be limited to additional duties as are prescribed by commission rule.

(F) A commission member is not required to devote the member's full time to membership on the commission. Beginning on September 29, 2015, each member of the commission shall receive compensation of fifty thousand dollars per year. Beginning July 1, 2016, each member of the commission shall receive compensation of forty thousand dollars per year. Beginning July 1, 2017, each member of the commission shall receive compensation of thirty thousand dollars per year. Each member shall receive the member's actual and necessary expenses incurred in the discharge of the member's official duties.

(G) The governor shall not appoint an individual to the commission, and an individual shall not serve on the commission, if the individual has been convicted of or pleaded guilty or no contest to a disqualifying offense as defined in section 3772.07 of the Revised Code. Members coming under indictment or bill of information of a disqualifying offense shall resign from the commission immediately upon indictment.

(H) At least five commission members shall be present for the commission to meet. The

concurrence of four members is necessary for the commission to take any action. All members shall vote on the adoption of rules, and the approval of, and the suspension or revocation of, the licenses of casino operators or management companies, unless a member has a written leave of absence filed with and approved by the chairperson.

(I) A commission member may be removed or suspended from office in accordance with section 3.04 of the Revised Code.

(J) Each commission member, before entering upon the discharge of the member's official duties, shall make an oath to uphold the Ohio Constitution and laws of the state of Ohio and shall give a bond, payable by the commission, to the treasurer of state, in the sum of ten thousand dollars with sufficient sureties to be approved by the treasurer of state, which bond shall be filed with the secretary of state.

(K) The commission shall hold one regular meeting each month and shall convene other meetings at the request of the chairperson or a majority of the members. A member who fails to attend at least three-fifths of the regular and special meetings of the commission during any two-year period forfeits membership on the commission. All meetings of the commission shall be open meetings under section 121.22 of the Revised Code except as otherwise allowed by law.

(L) Pursuant to divisions (A)(3) and (9) of section 101.82 of the Revised Code, the commission is exempt from the requirements of sections 101.82 to 101.87 of the Revised Code.

**Sec. 3772.03.** (A) To ensure the integrity of casino gaming, the commission shall have authority to complete the functions of licensing, regulating, investigating, and penalizing casino operators, management companies, holding companies, key employees, casino gaming employees, and gaming-related vendors. The commission also shall have jurisdiction over all persons participating in casino gaming authorized by Section 6(C) of Article XV, Ohio Constitution, and this chapter.

(B) All rules adopted by the commission under this chapter shall be adopted under procedures established in Chapter 119. of the Revised Code. The commission may contract for the services of experts and consultants to assist the commission in carrying out its duties under this section.

(C) The commission shall adopt rules as are necessary for completing the functions stated in division (A) of this section and for addressing the subjects enumerated in division (D) of this section.

(D) The commission shall adopt, and as advisable and necessary shall amend or repeal, rules that include all of the following:

- (1) The prevention of practices detrimental to the public interest;
- (2) Prescribing the method of applying, and the form of application, that an applicant for a license under this chapter must follow as otherwise described in this chapter;
- (3) Prescribing the information to be furnished by an applicant or licensee as described in section 3772.11 of the Revised Code;
- (4) Describing the certification standards and duties of an independent testing laboratory certified under section 3772.31 of the Revised Code and the relationship between the commission, the laboratory, the gaming-related vendor, and the casino operator;
- (5) The minimum amount of insurance that must be maintained by a casino operator, management company, holding company, or gaming-related vendor;
- (6) The approval process for a significant change in ownership or transfer of control of a

licensee as provided in section 3772.091 of the Revised Code;

(7) The design of gaming supplies, devices, and equipment to be distributed by gaming-related vendors;

(8) Identifying the casino gaming that is permitted, identifying the gaming supplies, devices, and equipment, that are permitted, defining the area in which the permitted casino gaming may be conducted, and specifying the method of operation according to which the permitted casino gaming is to be conducted as provided in section 3772.20 of the Revised Code, and requiring gaming devices and equipment to meet the standards of this state;

(9) Tournament play in any casino facility;

(10) Establishing and implementing a voluntary exclusion program that provides all of the following:

(a) Except as provided by commission rule, a person who participates in the program shall agree to refrain from entering a casino facility.

(b) The name of a person participating in the program shall be included on a list of persons excluded from all casino facilities.

(c) Except as provided by commission rule, no person who participates in the program shall petition the commission for admittance into a casino facility.

(d) The list of persons participating in the program and the personal information of those persons shall be confidential and shall only be disseminated by the commission to a casino operator and the agents and employees of the casino operator for purposes of enforcement and to other entities, upon request of the participant and agreement by the commission.

(e) A casino operator shall make all reasonable attempts as determined by the commission to cease all direct marketing efforts to a person participating in the program.

(f) A casino operator shall not cash the check of a person participating in the program or extend credit to the person in any manner. However, the program shall not exclude a casino operator from seeking the payment of a debt accrued by a person before participating in the program.

(g) Any and all locations at which a person may register as a participant in the program shall be published.

(11) Requiring the commission to adopt standards regarding the marketing materials of a licensed casino operator, including allowing the commission to prohibit marketing materials that are contrary to the adopted standards;

(12) Requiring that the records, including financial statements, of any casino operator, management company, holding company, and gaming-related vendor be maintained in the manner prescribed by the commission and made available for inspection upon demand by the commission, but shall be subject to section 3772.16 of the Revised Code;

(13) Permitting a licensed casino operator, management company, key employee, or casino gaming employee to question a person suspected of violating this chapter;

(14) The chips, tokens, tickets, electronic cards, or similar objects that may be purchased by means of an agreement under which credit is extended to a wagerer by a casino operator;

(15) Establishing standards for provisional key employee licenses for a person who is required to be licensed as a key employee and is in exigent circumstances and standards for provisional licenses for casino gaming employees who submit complete applications and are



compliant under an instant background check. A provisional license shall be valid not longer than three months. A provisional license may be renewed one time, at the commission's discretion, for an additional three months. In establishing standards with regard to instant background checks the commission shall take notice of criminal records checks as they are conducted under section 311.41 of the Revised Code using electronic fingerprint reading devices.

(16) Establishing approval procedures for third-party engineering or accounting firms, as described in section 3772.09 of the Revised Code;

(17) Prescribing the manner in which winnings, compensation from casino gaming, and gross revenue must be computed and reported by a licensee as described in Chapter 5753. of the Revised Code;

(18) Prescribing conditions under which a licensee's license may be suspended or revoked as described in section 3772.04 of the Revised Code;

(19) Prescribing the manner and procedure of all hearings to be conducted by the commission or by any hearing examiner;

(20) Prescribing technical standards and requirements that are to be met by security and surveillance equipment that is used at and standards and requirements to be met by personnel who are employed at casino facilities, and standards and requirements for the provision of security at and surveillance of casino facilities;

(21) Prescribing requirements for a casino operator to provide unarmed security services at a casino facility by licensed casino employees, and the training that shall be completed by these employees;

(22) Prescribing standards according to which casino operators shall keep accounts and standards according to which casino accounts shall be audited, and establish means of assisting the tax commissioner in levying and collecting the gross casino revenue tax levied under section 5753.02 of the Revised Code;

(23) Defining penalties for violation of commission rules and a process for imposing such penalties;

(24) Establishing standards for decertifying contractors that violate statutes or rules of this state or the federal government;

(25) Establishing standards for the repair of casino gaming equipment;

(26) Establishing procedures to ensure that casino operators, management companies, and holding companies are compliant with the compulsive and problem gambling plan submitted under section 3772.18 of the Revised Code;

(27) Prescribing, for institutional investors in or holding companies of a casino operator, management company, holding company, or gaming-related vendor that fall below the threshold needed to be considered an institutional investor or a holding company, standards regarding what any employees, members, or owners of those investors or holding companies may do and shall not do in relation to casino facilities and casino gaming in this state, which standards shall rationally relate to the need to proscribe conduct that is inconsistent with passive institutional investment status;

(28) Providing for any other thing necessary and proper for successful and efficient regulation of casino gaming under this chapter.

(E) The commission shall employ and assign gaming agents as necessary to assist the

commission in carrying out the duties of this chapter and Chapter 2915. of the Revised Code. In order to maintain employment as a gaming agent, the gaming agent shall successfully complete all continuing training programs required by the commission and shall not have been convicted of or pleaded guilty or no contest to a disqualifying offense as defined in section 3772.07 of the Revised Code.

(F) The commission, as a law enforcement agency, and its gaming agents, as law enforcement officers as defined in section 2901.01 of the Revised Code, shall have authority with regard to the detection and investigation of, the seizure of evidence allegedly relating to, and the apprehension and arrest of persons allegedly committing violations of this chapter or gambling offenses as defined in section 2915.01 of the Revised Code or violations of any other law of this state that may affect the integrity of casino gaming or the operation of skill-based amusement machines, and shall have access to casino facilities and skill-based amusement machine facilities to carry out the requirements of this chapter.

(G) The commission may eject or exclude or authorize the ejection or exclusion of and a gaming agent may eject a person from a casino facility for any of the following reasons:

(1) The person's name is on the list of persons voluntarily excluding themselves from all casinos in a program established according to rules adopted by the commission;

(2) The person violates or conspires to violate this chapter or a rule adopted thereunder; or

(3) The commission determines that the person's conduct or reputation is such that the person's presence within a casino facility may call into question the honesty and integrity of the casino gaming operations or interfere with the orderly conduct of the casino gaming operations.

(H) A person, other than a person participating in a voluntary exclusion program, may petition the commission for a public hearing on the person's ejection or exclusion under this chapter.

(I) A casino operator or management company shall have the same authority to eject or exclude a person from the management company's casino facilities as authorized in division (G) of this section. The licensee shall immediately notify the commission of an ejection or exclusion.

(J) The commission shall submit a written annual report with the governor, president and minority leader of the senate, and the speaker and minority leader of the house of representatives before the first day of September each year. The annual report shall cover the previous fiscal year and shall include all of the following:

(1) A statement describing the receipts and disbursements of the commission;

(2) Relevant financial data regarding casino gaming, including gross revenues and disbursements made under this chapter;

(3) Actions taken by the commission;

(4) An update on casino operators', management companies', and holding companies' compulsive and problem gambling plans and the voluntary exclusion program and list;

(5) Information regarding prosecutions for conduct described in division (H) of section 3772.99 of the Revised Code, including, but not limited to, the total number of prosecutions commenced and the name of each person prosecuted;

(6) Any additional information that the commission considers useful or that the governor, president or minority leader of the senate, speaker or minority leader of the house of representatives requests.

(K) To ensure the integrity of skill-based amusement machine operations, the commission shall have jurisdiction over all persons conducting or participating in the conduct of skill-based amusement machine operations authorized by this chapter and Chapter 2915. of the Revised Code, including the authority to complete the functions of licensing, regulating, investigating, and penalizing those persons in a manner that is consistent with the commission's authority to do the same with respect to casino gaming. To carry out this division, the commission may adopt rules under Chapter 119. of the Revised Code, including rules establishing fees and penalties related to the operation of skill-based amusement machines.

(L) To ensure the integrity of fantasy contests, the commission shall have jurisdiction over all persons conducting or participating in the conduct of a fantasy contest authorized by Chapter 3774. of the Revised Code, including the authority to license, regulate, investigate, and penalize those persons in a manner that is consistent with the commission's authority to do the same with respect to skill-based amusement machines. To carry out this division, the commission may adopt rules under Chapter 119. of the Revised Code, including rules establishing fees and penalties related to the operation of fantasy contests.

(M) All fees imposed pursuant to the rules adopted under divisions (K) and (L) of this section shall be deposited into the casino control commission fund.

**Sec. 3772.99.** (A) The commission shall levy and collect penalties for noncriminal violations of this chapter. Noncriminal violations include using the term "casino" in any advertisement in regard to a facility operating video lottery terminals, as defined in section 3770.21 of the Revised Code, in this state. Moneys collected from such penalty levies shall be credited to the general revenue fund.

(B) If a licensed casino operator, management company, holding company, gaming-related vendor, or key employee violates this chapter or engages in a fraudulent act, the commission may suspend or revoke the license and may do either or both of the following:

- (1) Suspend, revoke, or restrict the casino gaming operations of a casino operator;
- (2) Require the removal of a management company, key employee, or discontinuance of services from a gaming-related vendor.

(C) The commission shall impose civil penalties against a person who violates this chapter under the penalties adopted by commission rule.

(D) A person who purposely or knowingly does any of the following commits a misdemeanor of the first degree on the first offense and a felony of the fifth degree for a subsequent offense:

- (1) Makes a false statement on an application submitted under this chapter;
- (2) Permits a person less than twenty-one years of age to make a wager at a casino facility;
- (3) Aids, induces, or causes a person less than twenty-one years of age who is not an employee of the casino gaming operation to enter or attempt to enter a casino facility;
- (4) Enters or attempts to enter a casino facility while under twenty-one years of age, unless the person enters a designated area as described in section 3772.24 of the Revised Code;
- (5) Is a casino operator or employee and participates in casino gaming at the casino facility at which the casino operator or employee has an interest or is employed or at an affiliated casino facility in this state other than as part of operation or employment.

(E) A person who purposely or knowingly does any of the following commits a felony of the fifth degree on a first offense and a felony of the fourth degree for a subsequent offense. If the person

is a licensee under this chapter, the commission shall revoke the person's license after the first offense.

(1) Uses or possesses with the intent to use a device to assist in projecting the outcome of the casino game, keeping track of the cards played, analyzing the probability of the occurrence of an event relating to the casino game, or analyzing the strategy for playing or betting to be used in the casino game, except as permitted by the commission;

(2) Cheats at a casino game;

(3) Manufactures, sells, or distributes any cards, chips, dice, game, or device that is intended to be used to violate this chapter;

(4) Alters or misrepresents the outcome of a casino game on which wagers have been made after the outcome is made sure but before the outcome is revealed to the players;

(5) Places, increases, or decreases a wager on the outcome of a casino game after acquiring knowledge that is not available to all players and concerns the outcome of the casino game that is the subject of the wager;

(6) Aids a person in acquiring the knowledge described in division (E)(5) of this section for the purpose of placing, increasing, or decreasing a wager contingent on the outcome of a casino game;

(7) Claims, collects, takes, or attempts to claim, collect, or take money or anything of value in or from a casino game with the intent to defraud or without having made a wager contingent on winning a casino game;

(8) Claims, collects, or takes an amount of money or thing of value of greater value than the amount won in a casino game;

(9) Uses or possesses counterfeit chips, tokens, or cashless wagering instruments in or for use in a casino game;

(10) Possesses a key or device designed for opening, entering, or affecting the operation of a casino game, drop box, or an electronic or a mechanical device connected with the casino game or removing coins, tokens, chips, or other contents of a casino game. This division does not apply to a casino operator, management company, or gaming-related vendor or their agents and employees in the course of agency or employment.

(11) Possesses materials used to manufacture a device intended to be used in a manner that violates this chapter;

(12) Operates a casino gaming operation in which wagering is conducted or is to be conducted in a manner other than the manner required under this chapter or a skill-based amusement machine operation in a manner other than the manner required under Chapter 2915. of the Revised Code.

(F) The possession of more than one of the devices described in division (E)(9), (10), or (11) of this section creates a rebuttable presumption that the possessor intended to use the devices for cheating.

(G) A person who purposely or knowingly does any of the following commits a felony of the third degree. If the person is a licensee under this chapter, the commission shall revoke the person's license after the first offense. A public servant or party official who is convicted under this division is forever disqualified from holding any public office, employment, or position of trust in this state.

(1) Offers, promises, or gives anything of value or benefit to a person who is connected with the casino operator, management company, holding company, or gaming-related vendor, including their officers and employees, under an agreement to influence or with the intent to influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a casino game or an official action of a commission member, agent, or employee;

(2) Solicits, accepts, or receives a promise of anything of value or benefit while the person is connected with a casino, including an officer or employee of a casino operator, management company, or gaming-related vendor, under an agreement to influence or with the intent to influence the actions of the person to affect or attempt to affect the outcome of a casino game or an official action of a commission member, agent, or employee;

(H) A person who knowingly or intentionally does any of the following while participating in casino gaming or otherwise transacting with a casino facility as permitted by Chapter 3772. of the Revised Code commits a felony of the fifth degree on a first offense and a felony of the fourth degree for a subsequent offense:

(1) Causes or attempts to cause a casino facility to fail to file a report required under 31 U.S.C. 5313(a) or 5325 or any regulation prescribed thereunder or section 1315.53 of the Revised Code, or to fail to file a report or maintain a record required by an order issued under section 21 of the "Federal Deposit Insurance Act" or section 123 of Pub. L. No. 91-508;

(2) Causes or attempts to cause a casino facility to file a report required under 31 U.S.C. 5313(a) or 5325 or any regulation prescribed thereunder or section 1315.53 of the Revised Code, to file a report or to maintain a record required by any order issued under 31 U.S.C. 5326, or to maintain a record required under any regulation prescribed under section 21 of the "Federal Deposit Insurance Act" or section 123 of Pub. L. No. 91-508 that contains a material omission or misstatement of fact;

(3) With one or more casino facilities, structures a transaction, is complicit in structuring a transaction, attempts to structure a transaction, or is complicit in an attempt to structure a transaction.

(I) A person who is convicted of a felony described in this chapter may be barred for life from entering a casino facility by the commission.

(J) As used in division (H) of this section:

(1) To be "complicit" means to engage in any conduct of a type described in divisions (A)(1) to (4) of section 2923.03 of the Revised Code.

(2) "Structure a transaction" has the same meaning as in section 1315.51 of the Revised Code.

(K) Premises used or occupied in violation of division (E)(12) of this section constitute a nuisance subject to abatement under Chapter 3767. of the Revised Code.

**Sec. 3773.33.** (A) There is hereby created the Ohio athletic commission. The commission shall consist of five voting members appointed by the governor with the advice and consent of the senate, not more than three of whom shall be of the same political party, and two nonvoting members, one of whom shall be a member of the senate appointed by and to serve at the pleasure of the president of the senate and one of whom shall be a member of the house of representatives appointed by and to serve at the pleasure of the speaker of the house of representatives. To be eligible

for appointment as a voting member, a person shall be a qualified elector and a resident of the state for not less than five years immediately preceding the person's appointment. Two voting members shall be knowledgeable in boxing and mixed martial arts. One commission member shall hold the degree of doctor of medicine or doctor of osteopathy.

(B) No person shall be appointed to the commission or be an employee of the commission who is licensed, registered, or regulated by the commission. No member shall have any legal or beneficial interest, direct or indirect, pecuniary or otherwise, in any person who is licensed, registered, or regulated by the commission or who participates in prize fights or public boxing or wrestling matches or exhibitions. No member shall participate in any fight, match, or exhibition other than in the member's official capacity as a member of the commission, or as an inspector as authorized in section 3773.52 of the Revised Code.

(C) The governor shall appoint the voting members to the commission. Of the initial appointments, two shall be for terms ending one year after September 3, 1996, two shall be for terms ending two years after September 3, 1996, and one shall be for a term ending three years after September 3, 1996. Thereafter, terms of office shall be for three years, each term ending the same day of the same month of the year as did the term which it succeeds. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office.

The governor shall name one voting member as chairperson of the commission at the time of making the appointment of any member for a full term. Three voting members shall constitute a quorum, and the affirmative vote of the majority of voting members shall be necessary for any action taken by the commission. No vacancy on the commission impairs the authority of the remaining members to exercise all powers of the commission.

Voting members, when engaged in commission duties, shall receive a per diem compensation determined in accordance with division (J) of section 124.15 of the Revised Code, and all members shall receive their actual and necessary expenses incurred in the performance of their official duties.

Each voting member, before entering upon the discharge of the member's duties, shall file a surety bond payable to the treasurer of state in the sum of ten thousand dollars. Each surety bond shall be conditioned upon the faithful performance of the duties of the office, executed by a surety company authorized to transact business in this state, and filed in the office of the secretary of state.

The governor may remove any voting member for malfeasance, misfeasance, or nonfeasance in office after giving the member a copy of the charges against the member and affording the member an opportunity for a public hearing, at which the member may be represented by counsel, upon not less than ten days' notice. If the member is removed, the governor shall file a complete statement of all charges made against the member and the governor's finding on the charges in the office of the secretary of state, together with a complete report of the proceedings. The governor's decision shall be final.

**Sec. 3773.41.** Any person who desires to participate in a public boxing match, mixed martial arts event, or any other unarmed combat sport regulated by the Ohio athletic commission as a referee,

judge, matchmaker, timekeeper, or contestant, or as a manager, trainer, or second of a contestant, shall apply for a license from the Ohio athletic commission. The application shall be on forms provided by the commission. Each application shall be accompanied by the application fee prescribed in section 3773.43 of the Revised Code. The applicant shall verify the application under oath.

The commission shall prescribe the form of the application for a participant's license. The application shall include the correct and ring or assumed name, if any, of the applicant, the applicant's address, the applicant's date and place of birth, the applicant's occupation, and a copy of the applicant's win and loss record as a contestant, if applicable.

**Sec. 3773.42.** Upon the proper filing of an application for a referee's, judge's, matchmaker's, timekeeper's, manager's, trainer's, contestant's, or second's license and payment of the applicable application fee, the Ohio athletic commission shall issue the license to the applicant if it determines that the applicant is of good moral character, is not likely to engage in acts detrimental to the fair and honest conduct of public boxing matches, mixed martial arts events, or any other unarmed combat sports regulated by the commission, and is qualified to hold such a license by reason of the applicant's knowledge and experience.

A person shall not be determined to possess the knowledge and experience necessary to qualify that person to hold a referee's license unless all of the following conditions are met:

(A) The person has completed such referee training requirements as the commission prescribes by rule.

(B) The person possesses such experience requirements as the commission prescribes by rule.

The commission shall issue a referee's license to each person who meets the requirements of divisions (A) and (B) of this section.

If upon the proper filing of an application for a contestant's license the commission determines that the applicant is of good moral character, is not likely to engage in acts detrimental to the conduct of public boxing matches, mixed martial arts events, or any other unarmed combat sports regulated by the commission, and possesses sufficient knowledge and experience, the commission shall issue the license to the applicant.

Each license issued pursuant to this section shall bear the correct name, or assumed name, if any, of the licensee, the address of the licensee, the date of issue, and a number designated by the commission.

A license issued pursuant to this section shall expire twelve months after its date of issue unless renewed. Upon application for renewal and payment of the renewal fee prescribed in section 3773.43 of the Revised Code, the commission shall renew the license unless it denies the application for one or more reasons stated in section 3123.47 or 3773.53 of the Revised Code.

**Sec. 3781.10.** (A)(1) The board of building standards shall formulate and adopt rules governing the erection, construction, repair, alteration, and maintenance of all buildings or classes of buildings specified in section 3781.06 of the Revised Code, including land area incidental to those buildings, the construction of industrialized units, the installation of equipment, and the standards or requirements for materials used in connection with those buildings. The board shall incorporate those rules into separate residential and nonresidential building codes. The standards shall relate to the conservation of energy and the safety and sanitation of those buildings.

(2) The rules governing nonresidential buildings are the lawful minimum requirements specified for those buildings and industrialized units, except that no rule other than as provided in division (C) of section 3781.108 of the Revised Code that specifies a higher requirement than is imposed by any section of the Revised Code is enforceable. The rules governing residential buildings are uniform requirements for residential buildings in any area with a building department certified to enforce the state residential building code. In no case shall any local code or regulation differ from the state residential building code unless that code or regulation addresses subject matter not addressed by the state residential building code or is adopted pursuant to section 3781.01 of the Revised Code.

(3) The rules adopted pursuant to this section are complete, lawful alternatives to any requirements specified for buildings or industrialized units in any section of the Revised Code. Except as otherwise provided in division (I) of this section, the board shall, on its own motion or on application made under sections 3781.12 and 3781.13 of the Revised Code, formulate, propose, adopt, modify, amend, or repeal the rules to the extent necessary or desirable to effectuate the purposes of sections 3781.06 to 3781.18 of the Revised Code.

(B) The board shall report to the general assembly proposals for amendments to existing statutes relating to the purposes declared in section 3781.06 of the Revised Code that public health and safety and the development of the arts require and shall recommend any additional legislation to assist in carrying out fully, in statutory form, the purposes declared in that section. The board shall prepare and submit to the general assembly a summary report of the number, nature, and disposition of the petitions filed under sections 3781.13 and 3781.14 of the Revised Code.

(C) On its own motion or on application made under sections 3781.12 and 3781.13 of the Revised Code, and after thorough testing and evaluation, the board shall determine by rule that any particular fixture, device, material, process of manufacture, manufactured unit or component, method of manufacture, system, or method of construction complies with performance standards adopted pursuant to section 3781.11 of the Revised Code. The board shall make its determination with regard to adaptability for safe and sanitary erection, use, or construction, to that described in any section of the Revised Code, wherever the use of a fixture, device, material, method of manufacture, system, or method of construction described in that section of the Revised Code is permitted by law. The board shall amend or annul any rule or issue an authorization for the use of a new material or manufactured unit on any like application. No department, officer, board, or commission of the state other than the board of building standards or the board of building appeals shall permit the use of any fixture, device, material, method of manufacture, newly designed product, system, or method of construction at variance with what is described in any rule the board of building standards adopts or issues or that is authorized by any section of the Revised Code. Nothing in this section shall be construed as requiring approval, by rule, of plans for an industrialized unit that conforms with the rules the board of building standards adopts pursuant to section 3781.11 of the Revised Code.

(D) The board shall recommend rules, codes, and standards to help carry out the purposes of section 3781.06 of the Revised Code and to help secure uniformity of state administrative rulings and local legislation and administrative action to the bureau of workers' compensation, the director of commerce, any other department, officer, board, or commission of the state, and to legislative authorities and building departments of counties, townships, and municipal corporations, and shall



recommend that they audit those recommended rules, codes, and standards by any appropriate action that they are allowed pursuant to law or the constitution.

(E)(1) The board shall certify municipal, township, and county building departments and the personnel of those building departments, and persons and employees of individuals, firms, or corporations as described in division (E)(7) of this section to exercise enforcement authority, to accept and approve plans and specifications, and to make inspections, pursuant to sections 3781.03, 3791.04, and 4104.43 of the Revised Code.

(2) The board shall certify departments, personnel, and persons to enforce the state residential building code, to enforce the nonresidential building code, or to enforce both the residential and the nonresidential building codes. Any department, personnel, or person may enforce only the type of building code for which certified.

(3) The board shall not require a building department, its personnel, or any persons that it employs to be certified for residential building code enforcement if that building department does not enforce the state residential building code. The board shall specify, in rules adopted pursuant to Chapter 119. of the Revised Code, the requirements for certification for residential and nonresidential building code enforcement, which shall be consistent with this division. The requirements for residential and nonresidential certification may differ. Except as otherwise provided in this division, the requirements shall include, but are not limited to, the satisfactory completion of an initial examination and, to remain certified, the completion of a specified number of hours of continuing building code education within each three-year period following the date of certification which shall be not less than thirty hours. The rules shall provide that continuing education credits and certification issued by the council of American building officials, national model code organizations, and agencies or entities the board recognizes are acceptable for purposes of this division. The rules shall specify requirements that are consistent with the provisions of section 5903.12 of the Revised Code relating to active duty military service and are compatible, to the extent possible, with requirements the council of American building officials and national model code organizations establish.

(4) The board shall establish and collect a certification and renewal fee for building department personnel, and persons and employees of persons, firms, or corporations as described in this section, who are certified pursuant to this division.

(5) Any individual certified pursuant to this division shall complete the number of hours of continuing building code education that the board requires or, for failure to do so, forfeit certification.

(6) This division does not require or authorize the board to certify personnel of municipal, township, and county building departments, and persons and employees of persons, firms, or corporations as described in this section, whose responsibilities do not include the exercise of enforcement authority, the approval of plans and specifications, or making inspections under the state residential and nonresidential building codes.

(7) Enforcement authority for approval of plans and specifications and enforcement authority for inspections may be exercised, and plans and specifications may be approved and inspections may be made on behalf of a municipal corporation, township, or county, by any of the following who the board of building standards certifies:

(a) Officers or employees of the municipal corporation, township, or county;

(b) Persons, or employees of persons, firms, or corporations, pursuant to a contract to furnish architectural, engineering, or other services to the municipal corporation, township, or county;

(c) Officers or employees of, and persons under contract with, a municipal corporation, township, county, health district, or other political subdivision, pursuant to a contract to furnish architectural, engineering, or other services.

(8) Municipal, township, and county building departments have jurisdiction within the meaning of sections 3781.03, 3791.04, and 4104.43 of the Revised Code, only with respect to the types of buildings and subject matters for which they are certified under this section.

(9) A certified municipal, township, or county building department may exercise enforcement authority, accept and approve plans and specifications, and make inspections pursuant to sections 3781.03, 3791.04, and 4104.43 of the Revised Code for a park district created pursuant to Chapter 1545. of the Revised Code upon the approval, by resolution, of the board of park commissioners of the park district requesting the department to exercise that authority and conduct those activities, as applicable.

(10) Certification shall be granted upon application by the municipal corporation, the board of township trustees, or the board of county commissioners and approval of that application by the board of building standards. The application shall set forth:

(a) Whether the certification is requested for residential or nonresidential buildings, or both;

(b) The number and qualifications of the staff composing the building department;

(c) The names, addresses, and qualifications of persons, firms, or corporations contracting to furnish work or services pursuant to division (E)(7)(b) of this section;

(d) The names of any other municipal corporation, township, county, health district, or political subdivision under contract to furnish work or services pursuant to division (E)(7) of this section;

(e) The proposed budget for the operation of the building department.

(11) The board of building standards shall adopt rules governing all of the following:

(a) The certification of building department personnel and persons and employees of persons, firms, or corporations exercising authority pursuant to division (E)(7) of this section. The rules shall disqualify any employee of the department or person who contracts for services with the department from performing services for the department when that employee or person would have to pass upon, inspect, or otherwise exercise authority over any labor, material, or equipment the employee or person furnishes for the construction, alteration, or maintenance of a building or the preparation of working drawings or specifications for work within the jurisdictional area of the department. The department shall provide other similarly qualified personnel to enforce the residential and nonresidential building codes as they pertain to that work.

(b) The minimum services to be provided by a certified building department.

(12) The board of building standards may revoke or suspend certification to enforce the residential and nonresidential building codes, on petition to the board by any person affected by that enforcement or approval of plans, or by the board on its own motion. Hearings shall be held and appeals permitted on any proceedings for certification or revocation or suspension of certification in the same manner as provided in section 3781.101 of the Revised Code for other proceedings of the board of building standards.

(13) Upon certification, and until that authority is revoked, any county or township building department shall enforce the residential and nonresidential building codes for which it is certified without regard to limitation upon the authority of boards of county commissioners under Chapter 307. of the Revised Code or boards of township trustees under Chapter 505. of the Revised Code.

(F) In addition to hearings sections 3781.06 to 3781.18 and 3791.04 of the Revised Code require, the board of building standards shall make investigations and tests, and require from other state departments, officers, boards, and commissions information the board considers necessary or desirable to assist it in the discharge of any duty or the exercise of any power mentioned in this section or in sections 3781.06 to 3781.18, 3791.04, and 4104.43 of the Revised Code.

(G) The board shall adopt rules and establish reasonable fees for the review of all applications submitted where the applicant applies for authority to use a new material, assembly, or product of a manufacturing process. The fee shall bear some reasonable relationship to the cost of the review or testing of the materials, assembly, or products and for the notification of approval or disapproval as provided in section 3781.12 of the Revised Code.

(H) The residential construction advisory committee shall provide the board with a proposal for a state residential building code that the committee recommends pursuant to division (D)(1) of section 4740.14 of the Revised Code. Upon receiving a recommendation from the committee that is acceptable to the board, the board shall adopt rules establishing that code as the state residential building code.

(I)(1) The committee may provide the board with proposed rules to update or amend the state residential building code that the committee recommends pursuant to division (E) of section 4740.14 of the Revised Code.

(2) If the board receives a proposed rule to update or amend the state residential building code as provided in division (I)(1) of this section, the board either may accept or reject the proposed rule for incorporation into the residential building code. If the board does not act to either accept or reject the proposed rule within ninety days after receiving the proposed rule from the committee as described in division (I)(1) of this section, the proposed rule shall become part of the residential building code.

(J) The board shall cooperate with the director of job and family services when the director promulgates rules pursuant to section 5104.05 of the Revised Code regarding safety and sanitation in type A family day-care homes.

(K) The board shall adopt rules to implement the requirements of section 3781.108 of the Revised Code.

**Sec. 3781.106.**

**Sec. 3794.07. Duties of the Department of Health.**

This chapter shall be enforced by the department of health and its designees. The director of health shall within six months of December 7, 2006:

(A) Promulgate rules in accordance with Chapter 119. of the Revised Code to implement and enforce all provisions of this chapter;

(B) Promulgate rules in accordance with Chapter 119. of the Revised Code to prescribe a schedule of fines for violations of this chapter designed to foster compliance with the provisions of this chapter. The amount of a fine for a violation of divisions (A) and (B) of section 3794.02 and

divisions (A) and (B) of section 3794.06 of the Revised Code shall not be less than one hundred dollars and the maximum for a violation shall be twenty five hundred dollars. The amount of a fine for a violation of division (D) of section 3794.02 of the Revised Code shall be up to a maximum of one hundred dollars per violation. Each day of a violation shall constitute a separate violation. The schedule of fines that apply to a proprietor shall be progressive based on the number of prior violations by the proprietor. Violations which occurred more than two years prior to a subsequent violation shall not be considered if there has been no finding of a violation in the intervening time period. The fine schedule shall set forth specific factors that may be considered to decrease or waive the amount of a fine that otherwise would apply. Fines shall be doubled for intentional violations.

(C) Promulgate rules in accordance with Chapter 119. of the Revised Code to prescribe a procedure for providing a proprietor or individual written notice of a report of a violation and the opportunity to present in writing any statement or evidence to contest the report, and prescribing procedures for making findings whether a proprietor or individual violated a provision of this chapter and for imposing fines for violations;

(D) Establish a system for receiving reports of violations of the provisions of this chapter from any member of the public, including, but not limited to, by mail and one or more e-mail addresses and toll-free telephone numbers exclusively for such purpose. A person shall not be required to disclose his or her identity in order to report a violation;

(E) Inform proprietors of public places and places of employment of the requirements of this chapter and how to comply with its provisions, including, but not limited to, by providing printed and other materials and a toll-free telephone number and e-mail address exclusively for such purposes; and

(F) Design and implement a program to educate the public regarding the provisions of this chapter, including, but not limited to, through the establishment of an internet web site and how a violation may be reported.

(G) Adopt rules to prescribe fines for a violation of division (E) of section 3794.03 of the Revised Code. Division (B) of this section does not apply to a fine for a violation of division (E) of section 3794.03 of the Revised Code.

**Sec. 3901.052.**

**Sec. 3901.241.**

**Sec. 3901.491.** (A) As used in this section:

(1) "Genetic screening or testing" means a laboratory test of a person's genes or chromosomes for abnormalities, defects, or deficiencies, including carrier status, that are linked to physical or mental disorders or impairments, or that indicate a susceptibility to illness, disease, or other disorders, whether physical or mental, which test is a direct test for abnormalities, defects, or deficiencies, and not an indirect manifestation of genetic disorders.

(2) "Insurer" means any person authorized under Title XXXIX of the Revised Code to engage in the business of sickness and accident insurance.

(3) "Sickness and accident insurance" means sickness and accident insurance under Chapter 3923. of the Revised Code excluding disability income insurance and excluding supplemental policies of sickness and accident insurance.

(B) No insurer or public employee benefit plan shall do either of the following:

(1) Consider any information obtained from genetic screening or testing in processing an application for an individual or group policy of sickness and accident insurance or public employee benefit plan, or in determining insurability under such a policy or plan;

(2) Inquire, directly or indirectly, into the results of genetic screening or testing or use such information, in whole or in part, to cancel, refuse to issue or renew, limit benefits under, or set premiums for a sickness and accident insurance policy or public employee benefit plan.

(C) Any insurer or plan that has engaged in, is engaged in, or is about to engage in a violation of division (B) of this section is subject to the jurisdiction of the superintendent of insurance under section 3901.04 of the Revised Code.

**Sec. 3903.81.** As used in sections 3903.81 to 3903.93 of the Revised Code:

(A) "Adjusted RBC report" means an RBC report that has been adjusted by the superintendent of insurance in accordance with division (C) of section 3903.82 of the Revised Code.

(B) "Authorized control level RBC" means the number determined under the risk-based capital formula in accordance with the RBC instructions.

(C) "Company action level RBC" means the product of 2.0 and an insurer's authorized control level RBC.

(D) "Corrective order" means an order issued by the superintendent of insurance in accordance with division (B)(3) of section 3903.84 of the Revised Code specifying corrective actions that the superintendent has determined are required.

(E) "Domestic insurer" means any insurance company organized under Chapter 3907. or 3925. of the Revised Code.

(F) "Foreign insurer" means any insurance company licensed under section 3909.01 or 3927.01 of the Revised Code.

(G) "Life or health insurer" means any insurance company licensed under section 3907.08 or 3909.01 of the Revised Code, a company possessing a certificate of authority pursuant to section 3929.01 of the Revised Code that writes only accident and health insurance, a fraternal benefit society licensed under Chapter 3921. of the Revised Code, or a multiple employer welfare arrangement issued a certificate of authority under Chapter 1739. of the Revised Code.

(H) "Mandatory control level RBC" means the product of .70 and an insurer's authorized control level RBC.

(I) "NAIC" means the national association of insurance commissioners.

(J) "Negative trend" means a negative trend over a period of time for a life or health insurer as determined in accordance with the trend test calculation included in the RBC instructions.

(K) "Property and casualty insurer" means any insurance company that has a certificate of authority pursuant to section 3929.01 of the Revised Code. "Property and casualty insurer" does not include monoline mortgage guarantee insurers, financial guarantee insurers, or title insurers.

(L) "RBC" means risk-based capital.

(M) "RBC instructions" means the RBC report, including risk-based capital instructions, as adopted by the NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC. "RBC instructions" shall also include any modifications adopted by the superintendent, as the superintendent considers to be necessary.

(N) "RBC level" means an insurer's company action level RBC, regulatory action level RBC,

authorized control level RBC, or mandatory control level RBC.

(O) "RBC plan" means a comprehensive financial plan containing the elements specified in division (B) of section 3903.83 of the Revised Code.

(P) "Revised RBC plan" means an RBC plan rejected by the superintendent of insurance and then revised by an insurer with or without incorporating the superintendent of insurance's recommendation.

(Q) "RBC report" means the report required by section 3903.82 of the Revised Code.

(R) "Regulatory action level RBC" means the product of 1.5 and an insurer's authorized control level RBC.

(S) "Total adjusted capital" means the sum of both of the following:

(1) An insurer's statutory capital and surplus as determined in accordance with the statutory accounting applicable to the annual statements prepared on a form adopted under section 3901.77 of the Revised Code, as required to be filed by sections 3907.19, 3909.06, and 3929.30 of the Revised Code;

(2) Such other items, if any, as the RBC instructions may provide.

**Sec. 3905.33.** (A) No person licensed under section 3905.30 of the Revised Code shall solicit, procure an application for, bind, issue, renew, or deliver a policy with any insurer that is not eligible to write insurance on an unauthorized basis in this state.

Pursuant to the "Nonadmitted and Reinsurance Reform Act of 2010," 15 U.S.C. 8201 et seq., 124 Stat. 1589, or any successor or replacement law, where this state is the home state of the insured, an insurer shall be considered eligible to write insurance on an unauthorized basis in this state if either of the following are true:

(1) The insurer meets the requirements and criteria in sections 5A(2) and 5C(2)(a) of the nonadmitted insurance model act adopted by the national association of insurance commissioners, or alternative nationwide uniform eligibility requirements adopted by this state through participation in a compact or other nationwide system pursuant to 15 U.S.C. 8201 et seq., 124 Stat. 1589.

(2) For unauthorized insurance placed with, or procured from an unauthorized insurer domiciled outside the United States, the insurer is listed on the quarterly listing of alien insurers maintained by the international insurers department of the national association of insurance commissioners.

(B)(1) No surplus lines broker shall solicit, procure, place, or renew any insurance with an unauthorized insurer unless an agent or the surplus lines broker has complied with the due diligence requirements of this section and is unable to procure the requested insurance from an authorized insurer.

Due diligence requires an agent to contact at least five of the authorized insurers the agent represents, or as many insurers as the agent represents, that customarily write the kind of insurance required by the insured. Due diligence is presumed if declinations are received from each authorized insurer contacted. If any authorized insurer fails to respond within ten days after the initial contact, the agent may assume the insurer has declined to accept the risk.

(2) Due diligence shall only be performed by an agent licensed in this state that holds an active property and casualty insurance agent license.

(3) An insurance agent or surplus lines broker is exempt from the due diligence requirements

of this section if the agent or surplus lines broker is procuring insurance from a risk purchasing group or risk retention group as provided in Chapter 3960. of the Revised Code.

(4) An insurance agent or surplus lines broker is exempt from the due diligence requirements of this section if the agent or surplus lines broker is seeking to procure or place unauthorized insurance for a person that qualifies as an exempt commercial purchaser under section 3905.331 of the Revised Code and both of the following are true:

(a) The surplus lines broker procuring or placing the surplus lines insurance has disclosed to the exempt commercial purchaser that the insurance may or may not be available from the authorized market that may provide greater protection with more regulatory oversight.

(b) After receipt of the disclosure required under division (B)(4)(a) of this section, the exempt commercial purchaser has requested in writing that the insurance agent or broker procure or place the insurance from an unauthorized insurer.

(C) Except when exempt from due diligence requirements under division (B) of this section, an insurance agent who procures or places insurance through a surplus lines broker shall obtain a signed statement from the insured acknowledging that the insurance policy is to be placed with a company or insurer not authorized to do business in this state and acknowledging that, in the event of the insolvency of the insurer, the insured is not entitled to any benefits or proceeds from the Ohio insurance guaranty association. The statement must be on a form prescribed by the superintendent and need not be notarized. The agent shall submit the original signed statement to the surplus lines broker within thirty days after the effective date of the policy. If no other agent is involved, the surplus lines broker shall obtain the statement from the insured.

The surplus lines broker shall maintain the original signed statement or a copy of the statement, and the originating agent shall keep a copy of the statement, for at least five years after the effective date of the policy to which the statement pertains. A copy of the signed statement shall be given to the insured at the time the insurance is bound or a policy is delivered.

(D) For the purpose of carrying out the "Nonadmitted and Reinsurance Reform Act of 2010," 124 Stat. 1589, 15 U.S.C. 8201 et seq., or any successor or replacement law, the superintendent shall conduct a fiscal analysis of the impact of entering into a multistate agreement or compact for determining eligibility for placement of unauthorized insurance and for payment, reporting, collection, and allocation of the tax on unauthorized insurance. If the fiscal analysis indicates that entering into a multistate agreement or compact is advantageous to this state, the superintendent may enter into the surplus lines insurance multistate compliance compact adopted by the national conference of insurance legislators and known as "SLIMPACT," as amended on December 21, 2010, and including any subsequent amendment; or, if it is in this state's financial best interest, the superintendent shall request that the general assembly authorize the superintendent to enter into a different multistate agreement or compact.

(E) The superintendent may adopt rules in accordance with Chapter 119. of the Revised Code to carry out the purposes of sections 3905.30 to 3905.38 of the Revised Code.

**Sec. 3905.481.** Each individual who is issued a resident insurance agent license shall complete at least twenty-four hours of continuing education for each license renewal period. The continuing education shall be offered in a course or program of study approved by the superintendent of insurance and shall include at least three hours of approved ethics training.

This section does not apply to any person or class of persons, as determined by the superintendent.

**Sec. 3929.86.** (A) No insurance company doing business in this state shall pay a claim of a named insured for fire damage to a structure located within a municipal corporation or township in this state where the amount recoverable for the fire loss to the structure under all policies exceeds five thousand dollars, unless the company is furnished with a certificate pursuant to division (B) of this section, and unless there is compliance with the procedures set forth in divisions (C) and (D) of this section.

(B)(1) The county treasurer, upon the written request of the named insured specifying the tax description of the property and the date agreed upon by the insurance company and the named insured as the date of the receipt of a proof of loss of the claim, shall furnish the named insured, to be supplied by the named insured to the company, either:

(a) A certificate to the effect that, as of the date specified in the request, there are no delinquent taxes, assessments, penalties, or charges against the property and that, as of the date of the treasurer's certificate, no municipal corporation or township has certified to the auditor any amount as total costs incurred by the municipal corporation or township for removal, repair, or securing of buildings or structures on the property pursuant to section 715.261 or 505.86 of the Revised Code;

(b) A certificate and bill showing the amount of delinquent taxes, assessments, penalties, and charges against the property as of the date specified in the request that have not been paid as of the date of the certificate and also showing, as of the date of the treasurer's certificate, the amount of the total costs, if any, incurred by a municipal corporation or township for removal, repair, or securing of buildings or structures on the property that have been certified to the county auditor under section 715.261 or 505.86 of the Revised Code. The county auditor shall, for the purposes of division (B) of this section, certify to the treasurer the total amount, if any, of such costs certified to the auditor by the municipal corporation or township.

(2)(a) Upon the receipt of a certificate pursuant to division (B)(1)(a) of this section, the insurance company shall pay the claim of the named insured in accordance with the policy terms, unless the loss agreed to between the named insured or insureds and the company or companies equals or exceeds sixty per cent of the aggregate limits of liability on all fire policies covering the building or structure. In the case of such a loss, the insurance company, the insured property owner, and the municipal corporation or township shall follow the procedures set forth in divisions (C) and (D) of this section.

(b) Upon the receipt of a certificate and bill pursuant to division (B)(1)(b) of this section, the insurance company shall return the bill to the treasurer and transfer to the county treasurer an amount from the insurance proceeds necessary to pay such taxes, assessments, penalties, charges, and costs as shown on the bill. Notwithstanding section 323.15 of the Revised Code, the treasurer shall receive such amount and apply or credit it to payment of the items shown in the bill.

(C) When the loss agreed to between the named insured or insureds and the company or companies equals or exceeds sixty per cent of the aggregate limits of liability on all fire policies covering the building or structure, the insurance company or companies, in accordance with division (F) of section 715.26 or division (G) of section 505.86 of the Revised Code, shall transfer from the insurance proceeds to the designated officer of the municipal corporation or township in the



aggregate two thousand dollars for each fifteen thousand dollars, and each fraction of that amount, of a claim, or, if, at the time of a proof of loss agreed to between the named insured or insureds and the insurance company or companies, the named insured or insureds have submitted a contractor's signed estimate of the costs of removing, repairing, or securing the building or other structure, shall transfer from the insurance proceeds the amount specified in the estimate.

The transfer of proceeds shall be on a pro rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the municipal corporation or township shall be disbursed in accordance with the policy terms.

The named insured or insureds may submit a contractor's signed estimate of the costs of removing, repairing, or securing the building or other structure after the transfer, and the designated officer shall return the amount of the fund in excess of the estimate to the named insured or insureds, provided that the municipal corporation or township has not commenced to remove, repair, or secure the building or other structure.

This division only applies to municipal corporations or townships that have adopted a resolution, ordinance, or regulation authorizing the procedure described in divisions (C) and (D) of this section and have filed a certified copy of the resolution, ordinance, or regulation for public record with the superintendent of insurance, and applies only to fire losses that occur after the filing of the certified copy. The resolution, ordinance, or regulation shall designate the officer authorized to carry out the duties of this section.

(D) Upon receipt of proceeds by the municipal corporation or township as authorized by this section, the designated officer shall place the proceeds in a separate fund to be used solely as security against the total cost of removing, repairing, or securing incurred by the municipal corporation or township pursuant to section 715.261 or 505.86 of the Revised Code.

When transferring the funds as required in division (C) of this section, an insurance company shall provide the municipal corporation or township with the name and address of the named insured or insureds, whereupon the municipal corporation or township shall contact the named insured or insureds, certify that the proceeds have been received by the municipal corporation or township, and notify them that the following procedures will be followed:

The fund shall be returned to the named insured or insureds when repairs, removal, or securing of the building or other structure have been completed and the required proof has been received by the designated officer, if the municipal corporation or township has not incurred any costs for the repairs, removal, or securing. However, the fund shall be returned to the named insured or insureds no later than sixty days after the designated officer receives the required proof. If the municipal corporation or township has incurred any costs for repairs, removal, or securing of the building or other structure, the costs shall be paid from the fund, and if excess funds remain, the municipal corporation or township shall transfer, no later than sixty days after all such costs have been paid, the remaining funds to the named insured or insureds. Nothing in this section shall be construed to limit the ability of a municipal corporation or township to recover any deficiency under section 715.261 or 505.86 of the Revised Code.

Nothing in this division shall be construed to prohibit the municipal corporation or township and the named insured or insureds from entering into an agreement that permits the transfer of funds to the named insured or insureds if some other reasonable disposition of the damaged property has

been negotiated.

(E) Proof of payment by the company or companies of proceeds under a policy in accordance with division (C) of this section is conclusive evidence of the discharge of its obligation to the insured under the policy to the extent of the payment and of compliance by the company or companies with division (C) of this section.

(F) Nothing in this section shall be construed to make an insurance company liable for any amount in excess of proceeds payable under its insurance policy or for any other act performed pursuant to this section, or to make a municipal corporation, township, or public official an insured under a policy of insurance, or to create an obligation to pay delinquent property taxes or unpaid removal liens or expenses other than as provided in this section.

(G) An insurance company making payment of policy proceeds under this section for delinquent taxes or structure removal liens or removal expenses incurred by a municipal corporation or township shall have the full benefit of such payment including all rights of subrogation and of assignment.

(H) As used in this section and section 3929.87 of the Revised Code, "insurance company" or "insurer" includes the Ohio fair plan underwriting association as established in section 3929.43 of the Revised Code.

(I) This section shall be liberally construed to accomplish its purpose to deter the commission of arson and related crimes, to discourage the abandonment of property, and to prevent urban blight and deterioration.

**Sec. 3959.01.** (A) "Administration fees" means any amount charged a covered person for services rendered. "Administration fees" includes commissions earned or paid by any person relative to services performed by an administrator.

(B) "Administrator" means any person who adjusts or settles claims on, residents of this state in connection with life, dental, health, prescription drugs, or disability insurance or self-insurance programs. "Administrator" includes a pharmacy benefit manager. "Administrator" does not include any of the following:

(1) An insurance agent or solicitor licensed in this state whose activities are limited exclusively to the sale of insurance and who does not provide any administrative services;

(2) Any person who administers or operates the workers' compensation program of a self-insuring employer under Chapter 4123. of the Revised Code;

(3) Any person who administers pension plans for the benefit of the person's own members or employees or administers pension plans for the benefit of the members or employees of any other person;

(4) Any person that administers an insured plan or a self-insured plan that provides life, dental, health, or disability benefits exclusively for the person's own members or employees;

(5) Any health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code or an insurance company that is authorized to write life or sickness and accident insurance in this state.

(C) "Aggregate excess insurance" means that type of coverage whereby the insurer agrees to reimburse the insured employer or trust for all benefits or claims paid during an agreement period on behalf of all covered persons under the plan or trust which exceed a stated deductible amount and

subject to a stated maximum.

(D) "Contracted pharmacy" or "pharmacy" means a pharmacy located in this state participating in either the network of a pharmacy benefit manager or in a health care or pharmacy benefit plan through a direct contract or through a contract with a pharmacy services administration organization, group purchasing organization, or another contracting agent.

(E) "Contributions" means any amount collected from a covered person to fund the self-insured portion of any plan in accordance with the plan's provisions, summary plan descriptions, and contracts of insurance.

(F) "Drug product reimbursement" means the amount paid by a pharmacy benefit manager to a contracted pharmacy for the cost of the drug dispensed to a patient and does not include a dispensing or professional fee.

(G) "Fiduciary" has the meaning set forth in section 1002(21)(A) of the "Employee Retirement Income Security Act of 1974," 88 Stat. 829, 29 U.S.C. 1001, as amended.

(H) "Fiscal year" means the twelve-month accounting period commencing on the date the plan is established and ending twelve months following that date, and each corresponding twelve-month accounting period thereafter as provided for in the summary plan description.

(I) "Insurer" means an entity authorized to do the business of insurance in this state or, for the purposes of this section, a health insuring corporation authorized to issue health care plans in this state.

(J) "Managed care organization" means an entity that provides medical management and cost containment services and includes a medicaid managed care organization, as defined in section 5167.01 of the Revised Code.

(K) "Maximum allowable cost" means a maximum drug product reimbursement for an individual drug or for a group of therapeutically and pharmaceutically equivalent multiple source drugs that are listed in the United States food and drug administration's approved drug products with therapeutic equivalence evaluations, commonly referred to as the orange book.

(L) "Maximum allowable cost list" means a list of the drugs for which a pharmacy benefit manager imposes a maximum allowable cost.

(M) "Multiple employer welfare arrangement" has the same meaning as in section 1739.01 of the Revised Code.

(N) "Pharmacy benefit manager" means an entity that contracts with pharmacies on behalf of an employer, a multiple employer welfare arrangement, public employee benefit plan, state agency, insurer, managed care organization, or other third-party payer to provide pharmacy health benefit services or administration.

(O) "Plan" means any arrangement in written form for the payment of life, dental, health, or disability benefits to covered persons defined by the summary plan description and includes a drug benefit plan administered by a pharmacy benefit manager.

(P) "Plan sponsor" means the person who establishes the plan.

(Q) "Self-insurance program" means a program whereby an employer provides a plan of benefits for its employees without involving an intermediate insurance carrier to assume risk or pay claims. "Self-insurance program" includes but is not limited to employer programs that pay claims up to a prearranged limit beyond which they purchase insurance coverage to protect against

unpredictable or catastrophic losses.

(R) "Specific excess insurance" means that type of coverage whereby the insurer agrees to reimburse the insured employer or trust for all benefits or claims paid during an agreement period on behalf of a covered person in excess of a stated deductible amount and subject to a stated maximum.

(S) "Summary plan description" means the written document adopted by the plan sponsor which outlines the plan of benefits, conditions, limitations, exclusions, and other pertinent details relative to the benefits provided to covered persons thereunder.

(T) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.

**Sec. 3959.111.**

**Sec. 3959.12.** (A) Any license issued under sections 3959.01 to 3959.16 of the Revised Code may be suspended for a period not to exceed two years, revoked, or not renewed by the superintendent of insurance after notice to the licensee and hearing in accordance with Chapter 119. of the Revised Code. The superintendent may suspend, revoke, or refuse to renew a license if upon investigation and proof the superintendent finds that the licensee has done any of the following:

(1) Knowingly violated any provision of sections 3959.01 to 3959.16 of the Revised Code or any rule promulgated by the superintendent;

(2) Knowingly made a material misstatement in the application for the license;

(3) Obtained or attempted to obtain a license through misrepresentation or fraud;

(4) Misappropriated or converted to the licensee's own use or improperly withheld insurance company premiums or contributions held in a fiduciary capacity, excluding, however, any interest earnings received by the administrator as disclosed in writing by the administrator to the plan sponsor;

(5) In the transaction of business under the license, used fraudulent, coercive, or dishonest practices;

(6) Failed to appear without reasonable cause or excuse in response to a subpoena, examination, warrant, or other order lawfully issued by the superintendent;

(7) Is affiliated with or under the same general management or interlocking directorate or ownership of another administrator that transacts business in this state and is not licensed under sections 3959.01 to 3959.16 of the Revised Code;

(8) Had a license suspended, revoked, or not renewed in any other state, district, territory, or province on grounds identical to those stated in sections 3959.01 to 3959.16 of the Revised Code;

(9) Been convicted of a financially related felony;

(10) Failed to report a felony conviction as required under section 3959.13 of the Revised Code.

(B) Upon receipt of notice of the order of suspension in accordance with section 119.07 of the Revised Code, the licensee shall promptly deliver the license to the superintendent, unless the order of suspension is appealed under section 119.12 of the Revised Code.

(C) Any person whose license is revoked or whose application is denied pursuant to sections 3959.01 to 3959.16 of the Revised Code is ineligible to apply for an administrators license for two years.

(D) The superintendent may impose a monetary fine against a licensee if, upon investigation and after notice and opportunity for hearing in accordance with Chapter 119. of the Revised Code,

the superintendent finds that the licensee has done either of the following:

(1) Committed fraud or engaged in any illegal or dishonest activity in connection with the administration of pharmacy benefit management services;

(2) Violated any provision of section 3959.111 of the Revised Code or any rule adopted by the superintendent pursuant to or to implement that section.

**Sec. 4113.81.**

**Sec. 4115.03.** As used in sections 4115.03 to 4115.16 of the Revised Code:

(A) "Public authority" means any officer, board, or commission of the state, or any political subdivision of the state, authorized to enter into a contract for the construction of a public improvement or to construct the same by the direct employment of labor, or any institution supported in whole or in part by public funds and said sections apply to expenditures of such institutions made in whole or in part from public funds.

(B) "Construction" means any of the following:

(1) Except as provided in division (B)(3) of this section, any new construction of a public improvement, the total overall project cost of which is fairly estimated to be more than the following amounts and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority:

(a) One hundred twenty-five thousand dollars, beginning on September 29, 2011, and continuing for one year thereafter;

(b) Two hundred thousand dollars, beginning when the time period described in division (B)(1)(a) of this section expires and continuing for one year thereafter;

(c) Two hundred fifty thousand dollars, beginning when the time period described in division (B)(1)(b) of this section expires.

(2) Except as provided in division (B)(4) of this section, any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of a public improvement, the total overall project cost of which is fairly estimated to be more than the following amounts and performed by other than full-time employees who have completed their probationary period in the classified civil service of a public authority:

(a) Thirty-eight thousand dollars, beginning on September 29, 2011, and continuing for one year thereafter;

(b) Sixty thousand dollars, beginning when the time period described in division (B)(2)(a) of this section expires and continuing for one year thereafter;

(c) Seventy-five thousand dollars, beginning when the time period described in division (B)(2)(b) of this section expires.

(3) Any new construction of a public improvement that involves roads, streets, alleys, sewers, ditches, and other works connected to road or bridge construction, the total overall project cost of which is fairly estimated to be more than seventy-eight thousand two hundred fifty-eight dollars adjusted biennially by the director of commerce pursuant to section 4115.034 of the Revised Code and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority;

(4) Any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of a public improvement that involves roads, streets, alleys, sewers, ditches, and other works connected

to road or bridge construction, the total overall project cost of which is fairly estimated to be more than twenty-three thousand four hundred forty-seven dollars adjusted biennially by the director of commerce pursuant to section 4115.034 of the Revised Code and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority.

(C) "Public improvement" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, water works, and all other structures or works constructed by a public authority of the state or any political subdivision thereof or by any person who, pursuant to a contract with a public authority, constructs any structure for a public authority of the state or a political subdivision thereof. When a public authority rents or leases a newly constructed structure within six months after completion of such construction, all work performed on such structure to suit it for occupancy by a public authority is a "public improvement." "Public improvement" does not include an improvement authorized by section 940.06 of the Revised Code that is constructed pursuant to a contract with a soil and water conservation district, as defined in section 940.01 of the Revised Code, or performed as a result of a petition filed pursuant to Chapter 6131., 6133., or 6135. of the Revised Code, wherein no less than seventy-five per cent of the project is located on private land and no less than seventy-five per cent of the cost of the improvement is paid for by private property owners pursuant to Chapter 940., 6131., 6133., or 6135. of the Revised Code.

(D) "Locality" means the county wherein the physical work upon any public improvement is being performed.

(E) "Prevailing wages" means the sum of the following:

- (1) The basic hourly rate of pay;
- (2) The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program;
- (3) The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing the following fringe benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected:
  - (a) Medical or hospital care or insurance to provide such;
  - (b) Pensions on retirement or death or insurance to provide such;
  - (c) Compensation for injuries or illnesses resulting from occupational activities if it is in addition to that coverage required by Chapters 4121. and 4123. of the Revised Code;
  - (d) Supplemental unemployment benefits that are in addition to those required by Chapter 4141. of the Revised Code;
  - (e) Life insurance;
  - (f) Disability and sickness insurance;
  - (g) Accident insurance;
  - (h) Vacation and holiday pay;
  - (i) Defraying of costs for apprenticeship or other similar training programs which are beneficial only to the laborers and mechanics affected;
  - (j) Other bona fide fringe benefits.

None of the benefits enumerated in division (E)(3) of this section may be considered in the

determination of prevailing wages if federal, state, or local law requires contractors or subcontractors to provide any of such benefits.

(F) "Interested party," with respect to a particular contract for construction of a public improvement, means:

- (1) Any person who submits a bid for the purpose of securing the award of the contract;
- (2) Any person acting as a subcontractor of a person described in division (F)(1) of this section;
- (3) Any bona fide organization of labor which has as members or is authorized to represent employees of a person described in division (F)(1) or (2) of this section and which exists, in whole or in part, for the purpose of negotiating with employers concerning the wages, hours, or terms and conditions of employment of employees;
- (4) Any association having as members any of the persons described in division (F)(1) or (2) of this section.

(G) Except as used in division (A) of this section, "officer" means an individual who has an ownership interest or holds an office of trust, command, or authority in a corporation, business trust, partnership, or association.

**Sec. 4117.01.** As used in this chapter:

(A) "Person," in addition to those included in division (C) of section 1.59 of the Revised Code, includes employee organizations, public employees, and public employers.

(B) "Public employer" means the state or any political subdivision of the state located entirely within the state, including, without limitation, any municipal corporation with a population of at least five thousand according to the most recent federal decennial census; county; township with a population of at least five thousand in the unincorporated area of the township according to the most recent federal decennial census; school district; governing authority of a community school established under Chapter 3314. of the Revised Code; college preparatory boarding school established under Chapter 3328. of the Revised Code or its operator; state institution of higher learning; public or special district; state agency, authority, commission, or board; or other branch of public employment. "Public employer" does not include the nonprofit corporation formed under section 187.01 of the Revised Code.

(C) "Public employee" means any person holding a position by appointment or employment in the service of a public employer, including any person working pursuant to a contract between a public employer and a private employer and over whom the national labor relations board has declined jurisdiction on the basis that the involved employees are employees of a public employer, except:

- (1) Persons holding elective office;
- (2) Employees of the general assembly and employees of any other legislative body of the public employer whose principal duties are directly related to the legislative functions of the body;
- (3) Employees on the staff of the governor or the chief executive of the public employer whose principal duties are directly related to the performance of the executive functions of the governor or the chief executive;
- (4) Persons who are members of the Ohio organized militia, while training or performing duty under section 5919.29 or 5923.12 of the Revised Code;

(5) Employees of the state employment relations board, including those employees of the state employment relations board utilized by the state personnel board of review in the exercise of the powers and the performance of the duties and functions of the state personnel board of review;

(6) Confidential employees;

(7) Management level employees;

(8) Employees and officers of the courts, assistants to the attorney general, assistant prosecuting attorneys, and employees of the clerks of courts who perform a judicial function;

(9) Employees of a public official who act in a fiduciary capacity, appointed pursuant to section 124.11 of the Revised Code;

(10) Supervisors;

(11) Students whose primary purpose is educational training, including graduate assistants or associates, residents, interns, or other students working as part-time public employees less than fifty per cent of the normal year in the employee's bargaining unit;

(12) Employees of county boards of election;

(13) Seasonal and casual employees as determined by the state employment relations board;

(14) Part-time faculty members of an institution of higher education;

(15) Participants in a work activity, developmental activity, or alternative work activity under sections 5107.40 to 5107.69 of the Revised Code who perform a service for a public employer that the public employer needs but is not performed by an employee of the public employer if the participant is not engaged in paid employment or subsidized employment pursuant to the activity;

(16) Employees included in the career professional service of the department of transportation under section 5501.20 of the Revised Code;

(17) Employees of community-based correctional facilities and district community-based correctional facilities created under sections 2301.51 to 2301.58 of the Revised Code.

(D) "Employee organization" means any labor or bona fide organization in which public employees participate and that exists for the purpose, in whole or in part, of dealing with public employers concerning grievances, labor disputes, wages, hours, terms, and other conditions of employment.

(E) "Exclusive representative" means the employee organization certified or recognized as an exclusive representative under section 4117.05 of the Revised Code.

(F) "Supervisor" means any individual who has authority, in the interest of the public employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other public employees; to responsibly direct them; to adjust their grievances; or to effectively recommend such action, if the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment, provided that:

(1) Employees of school districts who are department chairpersons or consulting teachers shall not be deemed supervisors.

(2) With respect to members of a police or fire department, no person shall be deemed a supervisor except the chief of the department or those individuals who, in the absence of the chief, are authorized to exercise the authority and perform the duties of the chief of the department. Where prior to June 1, 1982, a public employer pursuant to a judicial decision, rendered in litigation to which the public employer was a party, has declined to engage in collective bargaining with members



of a police or fire department on the basis that those members are supervisors, those members of a police or fire department do not have the rights specified in this chapter for the purposes of future collective bargaining. The state employment relations board shall decide all disputes concerning the application of division (F)(2) of this section.

(3) With respect to faculty members of a state institution of higher education, heads of departments or divisions are supervisors; however, no other faculty member or group of faculty members is a supervisor solely because the faculty member or group of faculty members participate in decisions with respect to courses, curriculum, personnel, or other matters of academic policy.

(4) No teacher as defined in section 3319.09 of the Revised Code shall be designated as a supervisor or a management level employee unless the teacher is employed under a contract governed by section 3319.01, 3319.011, or 3319.02 of the Revised Code and is assigned to a position for which a license deemed to be for administrators under state board rules is required pursuant to section 3319.22 of the Revised Code.

(G) "To bargain collectively" means to perform the mutual obligation of the public employer, by its representatives, and the representatives of its employees to negotiate in good faith at reasonable times and places with respect to wages, hours, terms, and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, with the intention of reaching an agreement, or to resolve questions arising under the agreement. "To bargain collectively" includes executing a written contract incorporating the terms of any agreement reached. The obligation to bargain collectively does not mean that either party is compelled to agree to a proposal nor does it require the making of a concession.

(H) "Strike" means continuous concerted action in failing to report to duty; willful absence from one's position; or stoppage of work in whole from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Strike" does not include a stoppage of work by employees in good faith because of dangerous or unhealthful working conditions at the place of employment that are abnormal to the place of employment.

(I) "Unauthorized strike" includes, but is not limited to, concerted action during the term or extended term of a collective bargaining agreement or during the pendency of the settlement procedures set forth in section 4117.14 of the Revised Code in failing to report to duty; willful absence from one's position; stoppage of work; slowdown, or abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Unauthorized strike" includes any such action, absence, stoppage, slowdown, or abstinence when done partially or intermittently, whether during or after the expiration of the term or extended term of a collective bargaining agreement or during or after the pendency of the settlement procedures set forth in section 4117.14 of the Revised Code.

(J) "Professional employee" means any employee engaged in work that is predominantly intellectual, involving the consistent exercise of discretion and judgment in its performance and requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship; or an employee who has completed the courses of

specialized intellectual instruction and is performing related work under the supervision of a professional person to become qualified as a professional employee.

(K) "Confidential employee" means any employee who works in the personnel offices of a public employer and deals with information to be used by the public employer in collective bargaining; or any employee who works in a close continuing relationship with public officers or representatives directly participating in collective bargaining on behalf of the employer.

(L) "Management level employee" means an individual who formulates policy on behalf of the public employer, who responsibly directs the implementation of policy, or who may reasonably be required on behalf of the public employer to assist in the preparation for the conduct of collective negotiations, administer collectively negotiated agreements, or have a major role in personnel administration. Assistant superintendents, principals, and assistant principals whose employment is governed by section 3319.02 of the Revised Code are management level employees. With respect to members of a faculty of a state institution of higher education, no person is a management level employee because of the person's involvement in the formulation or implementation of academic or institution policy.

(M) "Wages" means hourly rates of pay, salaries, or other forms of compensation for services rendered.

(N) "Member of a police department" means a person who is in the employ of a police department of a municipal corporation as a full-time regular police officer as the result of an appointment from a duly established civil service eligibility list or under section 737.15 or 737.16 of the Revised Code, a full-time deputy sheriff appointed under section 311.04 of the Revised Code, a township constable appointed under section 509.01 of the Revised Code, or a member of a township or joint police district police department appointed under section 505.49 of the Revised Code.

(O) "Members of the state highway patrol" means highway patrol troopers and radio operators appointed under section 5503.01 of the Revised Code.

(P) "Member of a fire department" means a person who is in the employ of a fire department of a municipal corporation or a township as a fire cadet, full-time regular firefighter, or promoted rank as the result of an appointment from a duly established civil service eligibility list or under section 505.38, 709.012, or 737.22 of the Revised Code.

(Q) "Day" means calendar day.

**Sec. 4117.10.** (A) An agreement between a public employer and an exclusive representative entered into pursuant to this chapter governs the wages, hours, and terms and conditions of public employment covered by the agreement. If the agreement provides for a final and binding arbitration of grievances, public employers, employees, and employee organizations are subject solely to that grievance procedure and the state personnel board of review or civil service commissions have no jurisdiction to receive and determine any appeals relating to matters that were the subject of a final and binding grievance procedure. Where no agreement exists or where an agreement makes no specification about a matter, the public employer and public employees are subject to all applicable state or local laws or ordinances pertaining to the wages, hours, and terms and conditions of employment for public employees. All of the following prevail over conflicting provisions of agreements between employee organizations and public employers:

(1) Laws pertaining to any of the following subjects:

- (a) Civil rights;
  - (b) Affirmative action;
  - (c) Unemployment compensation;
  - (d) Workers' compensation;
  - (e) The retirement of public employees;
  - (f) Residency requirements;
  - (g) The minimum educational requirements contained in the Revised Code pertaining to public education including the requirement of a certificate by the fiscal officer of a school district pursuant to section 5705.41 of the Revised Code;
  - (h) The provisions of division (A) of section 124.34 of the Revised Code governing the disciplining of officers and employees who have been convicted of a felony;
  - (i) The minimum standards promulgated by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code.
- (2) The law pertaining to the leave of absence and compensation provided under section 5923.05 of the Revised Code, if the terms of the agreement contain benefits which are less than those contained in that section or the agreement contains no such terms and the public authority is the state or any agency, authority, commission, or board of the state or if the public authority is another entity listed in division (B) of section 4117.01 of the Revised Code that elects to provide leave of absence and compensation as provided in section 5923.05 of the Revised Code;
- (3) The law pertaining to the leave established under section 5906.02 of the Revised Code, if the terms of the agreement contain benefits that are less than those contained in section 5906.02 of the Revised Code;
- (4) The law pertaining to excess benefits prohibited under section 3345.311 of the Revised Code with respect to an agreement between an employee organization and a public employer entered into on or after ~~the effective date of this amendment~~ September 29, 2015.

Except for sections 306.08, 306.12, 306.35, and 4981.22 of the Revised Code and arrangements entered into thereunder, and section 4981.21 of the Revised Code as necessary to comply with section 13(c) of the "Urban Mass Transportation Act of 1964," 87 Stat. 295, 49 U.S.C.A. 1609(c), as amended, and arrangements entered into thereunder, this chapter prevails over any and all other conflicting laws, resolutions, provisions, present or future, except as otherwise specified in this chapter or as otherwise specified by the general assembly. Nothing in this section prohibits or shall be construed to invalidate the provisions of an agreement establishing supplemental workers' compensation or unemployment compensation benefits or exceeding minimum requirements contained in the Revised Code pertaining to public education or the minimum standards promulgated by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code.

(B) The public employer shall submit a request for funds necessary to implement an agreement and for approval of any other matter requiring the approval of the appropriate legislative body to the legislative body within fourteen days of the date on which the parties finalize the agreement, unless otherwise specified, but if the appropriate legislative body is not in session at the time, then within fourteen days after it convenes. The legislative body must approve or reject the submission as a whole, and the submission is deemed approved if the legislative body fails to act

within thirty days after the public employer submits the agreement. The parties may specify that those provisions of the agreement not requiring action by a legislative body are effective and operative in accordance with the terms of the agreement, provided there has been compliance with division (C) of this section. If the legislative body rejects the submission of the public employer, either party may reopen all or part of the entire agreement.

As used in this section, "legislative body" includes the governing board of a municipal corporation, school district, college or university, village, township, or board of county commissioners or any other body that has authority to approve the budget of their public jurisdiction and, with regard to the state, "legislative body" means the controlling board.

(C) The chief executive officer, or the chief executive officer's representative, of each municipal corporation, the designated representative of the board of education of each school district, college or university, or any other body that has authority to approve the budget of their public jurisdiction, the designated representative of the board of county commissioners and of each elected officeholder of the county whose employees are covered by the collective negotiations, and the designated representative of the village or the board of township trustees of each township is responsible for negotiations in the collective bargaining process; except that the legislative body may accept or reject a proposed collective bargaining agreement. When the matters about which there is agreement are reduced to writing and approved by the employee organization and the legislative body, the agreement is binding upon the legislative body, the employer, and the employee organization and employees covered by the agreement.

(D) There is hereby established an office of collective bargaining in the department of administrative services for the purpose of negotiating with and entering into written agreements between state agencies, departments, boards, and commissions and the exclusive representative on matters of wages, hours, terms and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement. Nothing in any provision of law to the contrary shall be interpreted as excluding the bureau of workers' compensation and the industrial commission from the preceding sentence. This office shall not negotiate on behalf of other statewide elected officials or boards of trustees of state institutions of higher education who shall be considered as separate public employers for the purposes of this chapter; however, the office may negotiate on behalf of these officials or trustees where authorized by the officials or trustees. The staff of the office of collective bargaining are in the unclassified service. The director of administrative services shall fix the compensation of the staff.

The office of collective bargaining shall:

- (1) Assist the director in formulating management's philosophy for public collective bargaining as well as planning bargaining strategies;
- (2) Conduct negotiations with the exclusive representatives of each employee organization;
- (3) Coordinate the state's resources in all mediation, fact-finding, and arbitration cases as well as in all labor disputes;
- (4) Conduct systematic reviews of collective bargaining agreements for the purpose of contract negotiations;
- (5) Coordinate the systematic compilation of data by all agencies that is required for negotiating purposes;

(6) Prepare and submit an annual report and other reports as requested to the governor and the general assembly on the implementation of this chapter and its impact upon state government.

**Sec. 4121.03.** (A) The governor shall appoint from among the members of the industrial commission the chairperson of the industrial commission. The chairperson shall serve as chairperson at the pleasure of the governor. The chairperson is the head of the commission and its chief executive officer.

(B) The chairperson shall appoint, after consultation with other commission members and obtaining the approval of at least one other commission member, an executive director of the commission. The executive director shall serve at the pleasure of the chairperson. The executive director, under the direction of the chairperson, shall perform all of the following duties:

- (1) Act as chief administrative officer for the commission;
- (2) Ensure that all commission personnel follow the rules of the commission;
- (3) Ensure that all orders, awards, and determinations are properly heard and signed, prior to attesting to the documents;
- (4) Coordinate, to the fullest extent possible, commission activities with the bureau of workers' compensation activities;
- (5) Do all things necessary for the efficient and effective implementation of the duties of the commission.

The responsibilities assigned to the executive director of the commission do not relieve the chairperson from final responsibility for the proper performance of the acts specified in this division.

(C) The chairperson shall do all of the following:

(1) Except as otherwise provided in this division, employ, promote, supervise, remove, and establish the compensation of all employees as needed in connection with the performance of the commission's duties under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code and may assign to them their duties to the extent necessary to achieve the most efficient performance of its functions, and to that end may establish, change, or abolish positions, and assign and reassign duties and responsibilities of every employee of the commission. The civil service status of any person employed by the commission prior to November 3, 1989, is not affected by this section. Personnel employed by the bureau or the commission who are subject to Chapter 4117. of the Revised Code shall retain all of their rights and benefits conferred pursuant to that chapter as it presently exists or is hereafter amended and nothing in this chapter or Chapter 4123. of the Revised Code shall be construed as eliminating or interfering with Chapter 4117. of the Revised Code or the rights and benefits conferred under that chapter to public employees or to any bargaining unit.

(2) Hire district and staff hearing officers after consultation with other commission members and obtaining the approval of at least one other commission member;

(3) Hire staff and district hearing officers when the chairperson finds appropriate after obtaining the approval of at least one other commission member;

(4) Maintain the office for the commission in Columbus;

(5) To the maximum extent possible, use electronic data processing equipment for the issuance of orders immediately following a hearing, scheduling of hearings and medical examinations, tracking of claims, retrieval of information, and any other matter within the commission's jurisdiction, and shall provide and input information into the electronic data processing

equipment as necessary to effect the success of the claims tracking system established pursuant to division (B)(14) of section 4121.121 of the Revised Code;

(6) Exercise all administrative and nonadjudicatory powers and duties conferred upon the commission by Chapters 4121., 4123., 4127., and 4131. of the Revised Code;

(7) Approve all contracts for special services.

(D) The chairperson is responsible for all administrative matters and may secure for the commission facilities, equipment, and supplies necessary to house the commission, any employees, and files and records under the commission's control and to discharge any duty imposed upon the commission by law, the expense thereof to be audited and paid in the same manner as other state expenses. For that purpose, the chairperson, separately from the budget prepared by the administrator of workers' compensation, shall prepare and submit to the office of budget and management a budget for each biennium according to sections 101.532 and 107.03 of the Revised Code. The budget submitted shall cover the costs of the commission and staff and district hearing officers in the discharge of any duty imposed upon the chairperson, the commission, and hearing officers by law.

(E) A majority of the commission constitutes a quorum to transact business. No vacancy impairs the rights of the remaining members to exercise all of the powers of the commission, so long as a majority remains. Any investigation, inquiry, or hearing that the commission may hold or undertake may be held or undertaken by or before any one member of the commission, or before one of the deputies of the commission, except as otherwise provided in this chapter and Chapters 4123., 4127., and 4131. of the Revised Code. Every order made by a member, or by a deputy, when approved and confirmed by a majority of the members, and so shown on its record of proceedings, is the order of the commission. The commission may hold sessions at any place within the state. The commission is responsible for all of the following:

(1) Establishing the overall adjudicatory policy and management of the commission under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code, except for those administrative matters within the jurisdiction of the chairperson, bureau of workers' compensation, and the administrator of workers' compensation under those chapters;

(2) Hearing appeals and reconsiderations under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;

(3) Engaging in rulemaking where required by this chapter or Chapter 4123., 4127., or 4131. of the Revised Code.

**Sec. 4121.121.** (A) There is hereby created the bureau of workers' compensation, which shall be administered by the administrator of workers' compensation. A person appointed to the position of administrator shall possess significant management experience in effectively managing an organization or organizations of substantial size and complexity. A person appointed to the position of administrator also shall possess a minimum of five years of experience in the field of workers' compensation insurance or in another insurance industry, except as otherwise provided when the conditions specified in division (C) of this section are satisfied. The governor shall appoint the administrator as provided in section 121.03 of the Revised Code, and the administrator shall serve at the pleasure of the governor. The governor shall fix the administrator's salary on the basis of the administrator's experience and the administrator's responsibilities and duties under this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code. The governor shall not appoint

to the position of administrator any person who has, or whose spouse has, given a contribution to the campaign committee of the governor in an amount greater than one thousand dollars during the two-year period immediately preceding the date of the appointment of the administrator.

The administrator shall hold no other public office and shall devote full time to the duties of administrator. Before entering upon the duties of the office, the administrator shall take an oath of office as required by sections 3.22 and 3.23 of the Revised Code, and shall file in the office of the secretary of state, a bond signed by the administrator and by surety approved by the governor, for the sum of fifty thousand dollars payable to the state, conditioned upon the faithful performance of the administrator's duties.

(B) The administrator is responsible for the management of the bureau and for the discharge of all administrative duties imposed upon the administrator in this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code, and in the discharge thereof shall do all of the following:

(1) Perform all acts and exercise all authorities and powers, discretionary and otherwise that are required of or vested in the bureau or any of its employees in this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code, except the acts and the exercise of authority and power that is required of and vested in the bureau of workers' compensation board of directors or the industrial commission pursuant to those chapters. The treasurer of state shall honor all warrants signed by the administrator, or by one or more of the administrator's employees, authorized by the administrator in writing, or bearing the facsimile signature of the administrator or such employee under sections 4123.42 and 4123.44 of the Revised Code.

(2) Employ, direct, and supervise all employees required in connection with the performance of the duties assigned to the bureau by this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code, including an actuary, and may establish job classification plans and compensation for all employees of the bureau provided that this grant of authority shall not be construed as affecting any employee for whom the state employment relations board has established an appropriate bargaining unit under section 4117.06 of the Revised Code. All positions of employment in the bureau are in the classified civil service except those employees the administrator may appoint to serve at the administrator's pleasure in the unclassified civil service pursuant to section 124.11 of the Revised Code. The administrator shall fix the salaries of employees the administrator appoints to serve at the administrator's pleasure, including the chief operating officer, staff physicians, and other senior management personnel of the bureau and shall establish the compensation of staff attorneys of the bureau's legal section and their immediate supervisors, and take whatever steps are necessary to provide adequate compensation for other staff attorneys.

The administrator may appoint a person who holds a certified position in the classified service within the bureau to a position in the unclassified service within the bureau. A person appointed pursuant to this division to a position in the unclassified service shall retain the right to resume the position and status held by the person in the classified service immediately prior to the person's appointment in the unclassified service, regardless of the number of positions the person held in the unclassified service. An employee's right to resume a position in the classified service may only be exercised when the administrator demotes the employee to a pay range lower than the employee's current pay range or revokes the employee's appointment to the unclassified service. An

employee who holds a position in the classified service and who is appointed to a position in the unclassified service on or after January 1, 2016, shall have the right to resume a position in the classified service under this division only within five years after the effective date of the employee's appointment in the unclassified service. An employee forfeits the right to resume a position in the classified service when the employee is removed from the position in the unclassified service due to incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of this chapter or Chapter 124., 4123., 4125., 4127., 4131., or 4167. of the Revised Code, violation of the rules of the director of administrative services or the administrator, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony while employed in the civil service. An employee also forfeits the right to resume a position in the classified service upon transfer to a different agency.

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

(3) Reorganize the work of the bureau, its sections, departments, and offices to the extent necessary to achieve the most efficient performance of its functions and to that end may establish, change, or abolish positions and assign and reassign duties and responsibilities of every employee of the bureau. All persons employed by the commission in positions that, after November 3, 1989, are supervised and directed by the administrator under this section are transferred to the bureau in their respective classifications but subject to reassignment and reclassification of position and compensation as the administrator determines to be in the interest of efficient administration. The civil service status of any person employed by the commission is not affected by this section. Personnel employed by the bureau or the commission who are subject to Chapter 4117. of the Revised Code shall retain all of their rights and benefits conferred pursuant to that chapter as it presently exists or is hereafter amended and nothing in this chapter or Chapter 4123. of the Revised Code shall be construed as eliminating or interfering with Chapter 4117. of the Revised Code or the rights and benefits conferred under that chapter to public employees or to any bargaining unit.

(4) Provide offices, equipment, supplies, and other facilities for the bureau.

(5) Prepare and submit to the board information the administrator considers pertinent or the board requires, together with the administrator's recommendations, in the form of administrative rules, for the advice and consent of the board, for classifications of occupations or industries, for premium rates and contributions, for the amount to be credited to the surplus fund, for rules and systems of rating, rate revisions, and merit rating. The administrator shall obtain, prepare, and submit any other information the board requires for the prompt and efficient discharge of its duties.



(6) Keep the accounts required by division (A) of section 4123.34 of the Revised Code and all other accounts and records necessary to the collection, administration, and distribution of the workers' compensation funds and shall obtain the statistical and other information required by section 4123.19 of the Revised Code.

(7) Exercise the investment powers vested in the administrator by section 4123.44 of the Revised Code in accordance with the investment policy approved by the board pursuant to section 4121.12 of the Revised Code and in consultation with the chief investment officer of the bureau of workers' compensation. The administrator shall not engage in any prohibited investment activity specified by the board pursuant to division (F)(9) of section 4121.12 of the Revised Code and shall not invest in any type of investment specified in divisions (B)(1) to (10) of section 4123.442 of the Revised Code. All business shall be transacted, all funds invested, all warrants for money drawn and payments made, and all cash and securities and other property held, in the name of the bureau, or in the name of its nominee, provided that nominees are authorized by the administrator solely for the purpose of facilitating the transfer of securities, and restricted to the administrator and designated employees.

(8) In accordance with Chapter 125. of the Revised Code, purchase supplies, materials, equipment, and services.

(9) Prepare and submit to the board an annual budget for internal operating purposes for the board's approval. The administrator also shall, separately from the budget the industrial commission submits, prepare and submit to the director of budget and management a budget for each biennium. The budgets submitted to the board and the director shall include estimates of the costs and necessary expenditures of the bureau in the discharge of any duty imposed by law.

(10) As promptly as possible in the course of efficient administration, decentralize and relocate such of the personnel and activities of the bureau as is appropriate to the end that the receipt, investigation, determination, and payment of claims may be undertaken at or near the place of injury or the residence of the claimant and for that purpose establish regional offices, in such places as the administrator considers proper, capable of discharging as many of the functions of the bureau as is practicable so as to promote prompt and efficient administration in the processing of claims. All active and inactive lost-time claims files shall be held at the service office responsible for the claim. A claimant, at the claimant's request, shall be provided with information by telephone as to the location of the file pertaining to the claimant's claim. The administrator shall ensure that all service office employees report directly to the director for their service office.

(11) Provide a written binder on new coverage where the administrator considers it to be in the best interest of the risk. The administrator, or any other person authorized by the administrator, shall grant the binder upon submission of a request for coverage by the employer. A binder is effective for a period of thirty days from date of issuance and is nonrenewable. Payroll reports and premium charges shall coincide with the effective date of the binder.

(12) Set standards for the reasonable and maximum handling time of claims payment functions, ensure, by rules, the impartial and prompt treatment of all claims and employer risk accounts, and establish a secure, accurate method of time stamping all incoming mail and documents hand delivered to bureau employees.

(13) Ensure that all employees of the bureau follow the orders and rules of the commission as

such orders and rules relate to the commission's overall adjudicatory policy-making and management duties under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code.

(14) Manage and operate a data processing system with a common data base for the use of both the bureau and the commission and, in consultation with the commission, using electronic data processing equipment, shall develop a claims tracking system that is sufficient to monitor the status of a claim at any time and that lists appeals that have been filed and orders or determinations that have been issued pursuant to section 4123.511 or 4123.512 of the Revised Code, including the dates of such filings and issuances.

(15) Establish and maintain a medical section within the bureau. The medical section shall do all of the following:

(a) Assist the administrator in establishing standard medical fees, approving medical procedures, and determining eligibility and reasonableness of the compensation payments for medical, hospital, and nursing services, and in establishing guidelines for payment policies which recognize usual, customary, and reasonable methods of payment for covered services;

(b) Provide a resource to respond to questions from claims examiners for employees of the bureau;

(c) Audit fee bill payments;

(d) Implement a program to utilize, to the maximum extent possible, electronic data processing equipment for storage of information to facilitate authorizations of compensation payments for medical, hospital, drug, and nursing services;

(e) Perform other duties assigned to it by the administrator.

(16) Appoint, as the administrator determines necessary, panels to review and advise the administrator on disputes arising over a determination that a health care service or supply provided to a claimant is not covered under this chapter or Chapter 4123., 4127., or 4131. of the Revised Code or is medically unnecessary. If an individual health care provider is involved in the dispute, the panel shall consist of individuals licensed pursuant to the same section of the Revised Code as such health care provider.

(17) Pursuant to section 4123.65 of the Revised Code, approve applications for the final settlement of claims for compensation or benefits under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code as the administrator determines appropriate, except in regard to the applications of self-insuring employers and their employees.

(18) Comply with section 3517.13 of the Revised Code, and except in regard to contracts entered into pursuant to the authority contained in section 4121.44 of the Revised Code, comply with the competitive bidding procedures set forth in the Revised Code for all contracts into which the administrator enters provided that those contracts fall within the type of contracts and dollar amounts specified in the Revised Code for competitive bidding and further provided that those contracts are not otherwise specifically exempt from the competitive bidding procedures contained in the Revised Code.

(19) Adopt, with the advice and consent of the board, rules for the operation of the bureau.

(20) Prepare and submit to the board information the administrator considers pertinent or the board requires, together with the administrator's recommendations, in the form of administrative rules, for the advice and consent of the board, for the health partnership program and the qualified

health plan system, as provided in sections 4121.44, 4121.441, and 4121.442 of the Revised Code.

(C) The administrator, with the advice and consent of the senate, shall appoint a chief operating officer who has a minimum of five years of experience in the field of workers' compensation insurance or in another similar insurance industry if the administrator does not possess such experience. The chief operating officer shall not commence the chief operating officer's duties until after the senate consents to the chief operating officer's appointment. The chief operating officer shall serve in the unclassified civil service of the state.

**Sec. 4123.322.** (A) The administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation board of directors, shall adopt rules establishing a prospective payment system, which shall include all of the following:

(1) A requirement that upon an initial application for coverage, a private employer shall file with the application an estimate of the employer's payroll for the period the administrator determines pursuant to rules the administrator adopts, and shall pay the amount the administrator determines by rule in order to establish coverage for the employer as described in division (B)(12) of section 4121.121 of the Revised Code;

(2) A requirement that upon an initial application for coverage, a public employer, except for a state agency or state university or college, shall file with the application an estimate of the employer's payroll for the period the administrator determines pursuant to rules the administrator adopts, and shall pay the amount the administrator determines by rule in order to establish coverage for the employer as described in division (B)(11) of section 4121.121 of the Revised Code;

(3) A requirement that an employer complete periodic payroll reports of actual expenditures for previous coverage periods for reconciliation with estimated payroll reports;

(4) The assessment of a penalty for late payroll reconciliation reports and for late payment of any reconciliation premium;

(5) The establishment of a transition period during which time the bureau shall determine the adequacy of existing premium security deposits of employers, the establishment of provisions for additional premium payments during that transition, the provision of a credit of those deposits toward the first premium due from an employer under the rules adopted under divisions (A)(1) to (4) of this section, and the establishment of penalties for late payment or failure to comply with the rules.

(B) For purposes of division (A)(3) of this section, an employer shall make timely payment of any premium owed when actual payroll expenditures exceeded estimated payroll, and the employer shall receive premium credit when the estimated payroll exceeded the actual payroll.

(C) For purposes of division (A)(4) of this section, if the employer's actual payroll substantially exceeds the estimated payroll, the administrator may assess additional penalties specified in rules the administrator adopts on the reconciliation premium.

(D) As used in this section, "state university or college" has the same meaning as in section 4123.32 of the Revised Code.

**Sec. 4141.432.**

**Sec. 4301.12.** The division of liquor control shall provide for the custody, safekeeping, and deposit of all moneys, checks, and drafts received by it or any of its employees or agents prior to paying them to the treasurer of state as provided by section 113.08 of the Revised Code.

A sum equal to three dollars and thirty-eight cents for each gallon of spirituous liquor sold by

the division, JobsOhio, or a designee of JobsOhio during the period covered by the payment shall be paid into the state treasury to the credit of the general revenue fund. All moneys received from permit fees, except B-2a and S permit fees from B-2a and S permit holders who do not also hold A-2 or A-2f permits, shall be paid to the credit of the undivided liquor permit fund established by section 4301.30 of the Revised Code.

Except as otherwise provided by law, the division shall deposit all moneys collected under Chapters 4301. and 4303. of the Revised Code into the state treasury to the credit of the state liquor regulatory fund created in section 4301.30 of the Revised Code. In addition, revenue resulting from any contracts with the department of commerce pertaining to the responsibilities and operations described in this chapter may be credited to the fund.

Whenever, in the judgment of the director of budget and management, the amount in the liquor control fund is in excess of that needed to meet the maturing obligations of the division, as working capital for its further operations, to pay the operating expenses of the commission, and for the alcohol testing program under section 3701.143 of the Revised Code, the director shall transfer the excess to the credit of the general revenue fund. If the director determines that the amount in the liquor control fund is insufficient, the director may transfer money from the general revenue fund to the liquor control fund.

**Sec. 4301.243.**

**Sec. 4301.43.** (A) As used in sections 4301.43 to 4301.50 of the Revised Code:

(1) "Gallon" or "wine gallon" means one hundred twenty-eight fluid ounces.

(2) "Sale" or "sell" includes exchange, barter, gift, distribution, and, except with respect to A-4 permit holders, offer for sale.

(B) For the purposes of providing revenues for the support of the state and encouraging the grape industries in the state, a tax is hereby levied on the sale or distribution of wine in Ohio, except for known sacramental purposes, at the rate of thirty cents per wine gallon for wine containing not less than four per cent of alcohol by volume and not more than fourteen per cent of alcohol by volume, ninety-eight cents per wine gallon for wine containing more than fourteen per cent but not more than twenty-one per cent of alcohol by volume, one dollar and eight cents per wine gallon for vermouth, and one dollar and forty-eight cents per wine gallon for sparkling and carbonated wine and champagne, the tax to be paid by the holders of A-2, A-2f, and B-5 permits or by any other person selling or distributing wine upon which no tax has been paid. From the tax paid under this section on wine, vermouth, and sparkling and carbonated wine and champagne, the treasurer of state shall credit to the Ohio grape industries fund created under section 924.54 of the Revised Code a sum equal to one cent per gallon for each gallon upon which the tax is paid.

(C) For the purpose of providing revenues for the support of the state, there is hereby levied a tax on prepared and bottled highballs, cocktails, cordials, and other mixed beverages at the rate of one dollar and twenty cents per wine gallon to be paid by holders of A-4 permits or by any other person selling or distributing those products upon which no tax has been paid. Only one sale of the same article shall be used in computing the amount of tax due. The tax on mixed beverages to be paid by holders of A-4 permits under this section shall not attach until the ownership of the mixed beverage is transferred for valuable consideration to a wholesaler or retailer, and no payment of the tax shall be required prior to that time.

(D) During the period of July 1, 2017, through June 30, 2019, from the tax paid under this section on wine, vermouth, and sparkling and carbonated wine and champagne, the treasurer of state shall credit to the Ohio grape industries fund created under section 924.54 of the Revised Code a sum equal to two cents per gallon upon which the tax is paid. The amount credited under this division is in addition to the amount credited to the Ohio grape industries fund under division (B) of this section.

(E) For the purpose of providing revenues for the support of the state, there is hereby levied a tax on cider at the rate of twenty-four cents per wine gallon to be paid by the holders of A-2, A-2f, and B-5 permits or by any other person selling or distributing cider upon which no tax has been paid. Only one sale of the same article shall be used in computing the amount of the tax due.

**Sec. 4301.61.** (A) As used in this section and section 4301.611 of the Revised Code:

(1) "Card holder" means any person who presents a driver's or commercial driver's license or an identification card to a permit holder, or an agent or employee of a permit holder, for either of the purposes listed in division (A)(4)(a) or (b) of this section.

(2) "Identification card" means an identification card issued under sections 4507.50 to 4507.52 of the Revised Code or an equivalent identification card issued by another state.

(3) "Permit holder" means the holder of a permit issued under Chapter 4303. of the Revised Code.

(4) "Transaction scan" means the process by which a permit holder or an agent or employee of a permit holder checks, by means of a transaction scan device, the validity of a driver's or commercial driver's license or an identification card that is presented as a condition for doing either of the following:

(a) Purchasing any beer, intoxicating liquor, or low-alcohol beverage;

(b) Gaining admission to a premises that has been issued a liquor permit authorizing the sale of beer or intoxicating liquor for consumption on the premises where sold, and where admission is restricted to persons twenty-one years of age or older.

(5) "Transaction scan device" means any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver's or commercial driver's license or an identification card.

(B)(1) A permit holder or an agent or employee of a permit holder may perform a transaction scan by means of a transaction scan device to check the validity of a driver's or commercial driver's license or identification card presented by a card holder for either of the purposes listed in division (A)(4)(a) or (b) of this section.

(2) If the information deciphered by the transaction scan performed under division (B)(1) of this section fails to match the information printed on the driver's or commercial driver's license or identification card presented by the card holder, or if the transaction scan indicates that the information so printed is false or fraudulent, neither the permit holder nor any agent or employee of the permit holder shall sell any beer, intoxicating liquor, or low-alcohol beverage to the card holder.

(3) Division (B)(1) of this section does not preclude a permit holder or an agent or employee of a permit holder from using a transaction scan device to check the validity of a document other than a driver's or commercial driver's license or an identification card, if the document includes a bar code or magnetic strip that may be scanned by the device, as a condition of a sale of beer, intoxicating

liquor, or a low-alcohol beverage or of granting admission to a premises described in division (A)(4) of this section.

(C) The registrar of motor vehicles, with the approval of the liquor control commission, shall adopt, and may amend or rescind, rules in accordance with Chapter 119. of the Revised Code that do both of the following:

(1) Govern the recording and maintenance of information described in divisions (D)(1)(a) and (b) of this section, divisions (D)(1)(a) and (b) of section 2927.021 of the Revised Code, and divisions (D)(1)(a) and (b) of section 2925.57 of the Revised Code;

(2) Ensure quality control in the use of transaction scan devices under this section and sections 2927.021, 2927.022, 2925.57, 2925.58, and 4301.611 of the Revised Code.

(D)(1) No permit holder or agent or employee of a permit holder shall electronically or mechanically record or maintain any information derived from a transaction scan, except the following:

(a) The name and date of birth of the person listed on the driver's or commercial driver's license or identification card presented by a card holder;

(b) The expiration date and identification number of the driver's or commercial driver's license or identification card presented by a card holder.

(2) No permit holder or agent or employee of a permit holder shall use the information that is derived from a transaction scan or that is permitted to be recorded and maintained by division (D)(1) of this section, except for purposes of section 4301.611 of the Revised Code.

(3) No permit holder or agent or employee of a permit holder shall use a transaction scan device for a purpose other than a purpose listed in division (A)(4)(a) or (b) of this section.

(4) No permit holder or agent or employee of a permit holder shall sell or otherwise disseminate the information derived from a transaction scan to any third party, including, but not limited to, selling or otherwise disseminating that information for any marketing, advertising, or promotional activities, but a permit holder or agent or employee of a permit holder may release that information pursuant to a court order or as specifically authorized by section 4301.611 or another section of the Revised Code.

(E) Nothing in this section or section 4301.611 of the Revised Code relieves a permit holder or an agent or employee of a permit holder of any responsibility to comply with any other applicable state or federal laws or rules governing the sale of beer, intoxicating liquor, or low-alcohol beverages.

(F) Whoever violates division (B)(2) or (D) of this section is guilty of an illegal liquor transaction scan, and the court may impose upon the offender a civil penalty of up to one thousand dollars for each violation. The clerk of the court shall pay each collected civil penalty to the county treasurer for deposit into the county treasury.

**Sec. 4301.639.** (A) No permit holder, agent or employee of a permit holder, or any other person may be found guilty of a violation of any section of this chapter or any rule of the liquor control commission in which age is an element of the offense, if the liquor control commission or any court of record finds all of the following:

(1) That the person buying, at the time of so doing, exhibited to the permit holder, the agent or employee of the permit holder, or the other person a driver's or commercial driver's license, an identification card as defined in section 4301.61 of the Revised Code, a military identification card

issued by the United States department of defense, or a United States or foreign passport, that displays a picture of the individual for whom the license, card, or passport was issued and shows that the person buying was then at least twenty-one years of age, if the person was buying beer as defined in section 4301.01 of the Revised Code or intoxicating liquor, or that the person was then at least eighteen years of age, if the person was buying any low-alcohol beverage;

(2) That the permit holder, the agent or employee of the permit holder, or the other person made a bona fide effort to ascertain the true age of the person buying by checking the identification presented, at the time of the purchase, to ascertain that the description on the identification compared with the appearance of the buyer and that the identification presented had not been altered in any way;

(3) That the permit holder, the agent or employee of the permit holder, or the other person had reason to believe that the person buying was of legal age.

(B) In any hearing before the liquor control commission and in any action or proceeding before a court of record in which a defense is raised under division (A) of this section, the registrar of motor vehicles or deputy registrar who issued an identification card under sections 4507.50 to 4507.52 of the Revised Code shall be permitted to submit certified copies of the records, in the registrar's or deputy's possession, of that issuance in lieu of the testimony of the personnel of or contractors with the bureau of motor vehicles at the hearing, action, or proceeding.

(C) The defense provided by division (A) of this section is in addition to the affirmative defense provided by section 4301.611 of the Revised Code.

**Sec. 4301.83.**

**Sec. 4303.181.** (A) Permit D-5a may be issued either to the owner or operator of a hotel or motel that is required to be licensed under section 3731.03 of the Revised Code, that contains at least fifty rooms for registered transient guests or is owned by a state institution of higher education as defined in section 3345.011 of the Revised Code or a private college or university, and that qualifies under the other requirements of this section, or to the owner or operator of a restaurant specified under this section, to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and to registered guests in their rooms, which may be sold by means of a controlled access alcohol and beverage cabinet in accordance with division (B) of section 4301.21 of the Revised Code; and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. The premises of the hotel or motel shall include a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is affiliated with the hotel or motel and within or contiguous to the hotel or motel, and that serves food within the hotel or motel, but the principal business of the owner or operator of the hotel or motel shall be the accommodation of transient guests. In addition to the privileges authorized in this division, the holder of a D-5a permit may exercise the same privileges as the holder of a D-5 permit.

The owner or operator of a hotel, motel, or restaurant who qualified for and held a D-5a permit on August 4, 1976, may, if the owner or operator held another permit before holding a D-5a permit, either retain a D-5a permit or apply for the permit formerly held, and the division of liquor control shall issue the permit for which the owner or operator applies and formerly held,

notwithstanding any quota.

A D-5a permit shall not be transferred to another location. No quota restriction shall be placed on the number of D-5a permits that may be issued.

The fee for this permit is two thousand three hundred forty-four dollars.

(B) Permit D-5b may be issued to the owner, operator, tenant, lessee, or occupant of an enclosed shopping center to sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold; and to sell the same products in the same manner and amount not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5b permit may exercise the same privileges as a holder of a D-5 permit.

A D-5b permit shall not be transferred to another location.

One D-5b permit may be issued at an enclosed shopping center containing at least two hundred twenty-five thousand, but less than four hundred thousand, square feet of floor area.

Two D-5b permits may be issued at an enclosed shopping center containing at least four hundred thousand square feet of floor area. No more than one D-5b permit may be issued at an enclosed shopping center for each additional two hundred thousand square feet of floor area or fraction of that floor area, up to a maximum of five D-5b permits for each enclosed shopping center. The number of D-5b permits that may be issued at an enclosed shopping center shall be determined by subtracting the number of D-3 and D-5 permits issued in the enclosed shopping center from the number of D-5b permits that otherwise may be issued at the enclosed shopping center under the formulas provided in this division. Except as provided in this section, no quota shall be placed on the number of D-5b permits that may be issued. Notwithstanding any quota provided in this section, the holder of any D-5b permit first issued in accordance with this section is entitled to its renewal in accordance with section 4303.271 of the Revised Code.

The holder of a D-5b permit issued before April 4, 1984, whose tenancy is terminated for a cause other than nonpayment of rent, may return the D-5b permit to the division of liquor control, and the division shall cancel that permit. Upon cancellation of that permit and upon the permit holder's payment of taxes, contributions, premiums, assessments, and other debts owing or accrued upon the date of cancellation to this state and its political subdivisions and a filing with the division of a certification of that payment, the division shall issue to that person either a D-5 permit, or a D-1, a D-2, and a D-3 permit, as that person requests. The division shall issue the D-5 permit, or the D-1, D-2, and D-3 permits, even if the number of D-1, D-2, D-3, or D-5 permits currently issued in the municipal corporation or in the unincorporated area of the township where that person's proposed premises is located equals or exceeds the maximum number of such permits that can be issued in that municipal corporation or in the unincorporated area of that township under the population quota restrictions contained in section 4303.29 of the Revised Code. Any D-1, D-2, D-3, or D-5 permit so issued shall not be transferred to another location. If a D-5b permit is canceled under the provisions of this paragraph, the number of D-5b permits that may be issued at the enclosed shopping center for which the D-5b permit was issued, under the formula provided in this division, shall be reduced by one if the enclosed shopping center was entitled to more than one D-5b permit under the formula.

The fee for this permit is two thousand three hundred forty-four dollars.

(C) Permit D-5c may be issued to the owner or operator of a retail food establishment or a



food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that qualifies under the other requirements of this section to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5c permit may exercise the same privileges as the holder of a D-5 permit.

To qualify for a D-5c permit, the owner or operator of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter, shall have operated the restaurant at the proposed premises for not less than twenty-four consecutive months immediately preceding the filing of the application for the permit, have applied for a D-5 permit no later than December 31, 1988, and appear on the division's quota waiting list for not less than six months immediately preceding the filing of the application for the permit. In addition to these requirements, the proposed D-5c permit premises shall be located within a municipal corporation and further within an election precinct that, at the time of the application, has no more than twenty-five per cent of its total land area zoned for residential use.

A D-5c permit shall not be transferred to another location. No quota restriction shall be placed on the number of such permits that may be issued.

Any person who has held a D-5c permit for at least two years may apply for a D-5 permit, and the division of liquor control shall issue the D-5 permit notwithstanding the quota restrictions contained in section 4303.29 of the Revised Code or in any rule of the liquor control commission.

The fee for this permit is one thousand five hundred sixty-three dollars.

(D) Permit D-5d may be issued to the owner or operator of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is located at an airport operated by a board of county commissioners pursuant to section 307.20 of the Revised Code, at an airport operated by a port authority pursuant to Chapter 4582. of the Revised Code, or at an airport operated by a regional airport authority pursuant to Chapter 308. of the Revised Code. The holder of a D-5d permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and may sell the same products in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5d permit may exercise the same privileges as the holder of a D-5 permit.

A D-5d permit shall not be transferred to another location. No quota restrictions shall be placed on the number of such permits that may be issued.

The fee for this permit is two thousand three hundred forty-four dollars.

(E) Permit D-5e may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, or that is a charitable organization under any chapter of the Revised Code, and that owns or operates a riverboat that meets all of the following:

- (1) Is permanently docked at one location;
- (2) Is designated as an historical riverboat by the Ohio history connection;

(3) Contains not less than fifteen hundred square feet of floor area;

(4) Has a seating capacity of fifty or more persons.

The holder of a D-5e permit may sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold.

A D-5e permit shall not be transferred to another location. No quota restriction shall be placed on the number of such permits that may be issued. The population quota restrictions contained in section 4303.29 of the Revised Code or in any rule of the liquor control commission shall not apply to this division, and the division shall issue a D-5e permit to any applicant who meets the requirements of this division. However, the division shall not issue a D-5e permit if the permit premises or proposed permit premises are located within an area in which the sale of spirituous liquor by the glass is prohibited.

The fee for this permit is one thousand two hundred nineteen dollars.

(F) Permit D-5f may be issued to the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that meets all of the following:

(1) It contains not less than twenty-five hundred square feet of floor area.

(2) It is located on or in, or immediately adjacent to, the shoreline of, a navigable river.

(3) It provides docking space for twenty-five boats.

(4) It provides entertainment and recreation, provided that not less than fifty per cent of the business on the permit premises shall be preparing and serving meals for a consideration.

In addition, each application for a D-5f permit shall be accompanied by a certification from the local legislative authority that the issuance of the D-5f permit is not inconsistent with that political subdivision's comprehensive development plan or other economic development goal as officially established by the local legislative authority.

The holder of a D-5f permit may sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold.

A D-5f permit shall not be transferred to another location.

The division of liquor control shall not issue a D-5f permit if the permit premises or proposed permit premises are located within an area in which the sale of spirituous liquor by the glass is prohibited.

A fee for this permit is two thousand three hundred forty-four dollars.

As used in this division, "navigable river" means a river that is also a "navigable water" as defined in the "Federal Power Act," 94 Stat. 770 (1980), 16 U.S.C. 796.

(G) Permit D-5g may be issued to a nonprofit corporation that is either the owner or the operator of a national professional sports museum. The holder of a D-5g permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold. The holder of a D-5g permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after two-thirty a.m. A D-5g permit shall not be transferred to another location. No quota restrictions shall be placed on the number of D-5g permits that may be issued. The fee for this permit is one thousand eight hundred seventy-five dollars.

(H)(1) Permit D-5h may be issued to any nonprofit organization that is exempt from federal

income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, that owns or operates any of the following:

(a) A fine arts museum, provided that the nonprofit organization has no less than one thousand five hundred bona fide members possessing full membership privileges;

(b) A community arts center. As used in division (H)(1)(b) of this section, "community arts center" means a facility that provides arts programming to the community in more than one arts discipline, including, but not limited to, exhibits of works of art and performances by both professional and amateur artists.

(c) A community theater, provided that the nonprofit organization is a member of the Ohio arts council and the American community theatre association and has been in existence for not less than ten years. As used in division (H)(1)(c) of this section, "community theater" means a facility that contains at least one hundred fifty seats and has a primary function of presenting live theatrical performances and providing recreational opportunities to the community.

(2) The holder of a D-5h permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold. The holder of a D-5h permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after one a.m. A D-5h permit shall not be transferred to another location. No quota restrictions shall be placed on the number of D-5h permits that may be issued.

(3) The fee for a D-5h permit is one thousand eight hundred seventy-five dollars.

(1) Permit D-5i may be issued to the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that meets all of the following requirements:

(1) It is located in a municipal corporation or a township with a population of one hundred thousand or less.

(2) It has inside seating capacity for at least one hundred forty persons.

(3) It has at least four thousand square feet of floor area.

(4) It offers full-course meals, appetizers, and sandwiches.

(5) Its receipts from beer and liquor sales, excluding wine sales, do not exceed twenty-five per cent of its total gross receipts.

(6) It has at least one of the following characteristics:

(a) The value of its real and personal property exceeds seven hundred twenty-five thousand dollars.

(b) It is located on property that is owned or leased by the state or a state agency, and its owner or operator has authorization from the state or the state agency that owns or leases the property to obtain a D-5i permit.

The holder of a D-5i permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and may sell the same products in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The holder of a D-5i permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after two-thirty a.m. In addition to the privileges authorized in this division, the holder of a D-5i permit may exercise the same privileges as the holder of a D-5 permit.

A D-5i permit shall not be transferred to another location. The division of liquor control shall not renew a D-5i permit unless the retail food establishment or food service operation for which it is issued continues to meet the requirements described in divisions (I)(1) to (6) of this section. No quota restrictions shall be placed on the number of D-5i permits that may be issued. The fee for the D-5i permit is two thousand three hundred forty-four dollars.

(J) Permit D-5j may be issued to the owner or the operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code to sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold and to sell beer and intoxicating liquor in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The holder of a D-5j permit may exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

The D-5j permit shall be issued only within a community entertainment district that is designated under section 4301.80 of the Revised Code. The permit shall not be issued to a community entertainment district that is designated under divisions (B) and (C) of section 4301.80 of the Revised Code if the district does not meet one of the following qualifications:

(1) It is located in a municipal corporation with a population of at least one hundred thousand.

(2) It is located in a municipal corporation with a population of at least twenty thousand, and either of the following applies:

(a) It contains an amusement park the rides of which have been issued a permit by the department of agriculture under Chapter 1711. of the Revised Code.

(b) Not less than fifty million dollars will be invested in development and construction in the community entertainment district's area located in the municipal corporation.

(3) It is located in a township with a population of at least forty thousand.

(4) It is located in a township with a population of at least twenty thousand, and not less than seventy million dollars will be invested in development and construction in the community entertainment district's area located in the township.

(5) It is located in a municipal corporation with a population between seven thousand and twenty thousand, and both of the following apply:

(a) The municipal corporation was incorporated as a village prior to calendar year 1880 and currently has a historic downtown business district.

(b) The municipal corporation is located in the same county as another municipal corporation with at least one community entertainment district.

(6) It is located in a municipal corporation with a population of at least ten thousand, and not less than seventy million dollars will be invested in development and construction in the community entertainment district's area located in the municipal corporation.

(7) It is located in a municipal corporation with a population of at least three thousand, and not less than one hundred fifty million dollars will be invested in development and construction in the community entertainment district's area located in the municipal corporation.

The location of a D-5j permit may be transferred only within the geographic boundaries of the community entertainment district in which it was issued and shall not be transferred outside the

geographic boundaries of that district.

Not more than one D-5j permit shall be issued within each community entertainment district for each five acres of land located within the district. Not more than fifteen D-5j permits may be issued within a single community entertainment district. Except as otherwise provided in division (J) (4) of this section, no quota restrictions shall be placed upon the number of D-5j permits that may be issued.

The fee for a D-5j permit is two thousand three hundred forty-four dollars.

(K)(1) Permit D-5k may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, that is the owner or operator of a botanical garden recognized by the American association of botanical gardens and arboreta, and that has not less than twenty-five hundred bona fide members.

(2) The holder of a D-5k permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, on the premises where sold.

(3) The holder of a D-5k permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after one a.m.

(4) A D-5k permit shall not be transferred to another location.

(5) No quota restrictions shall be placed on the number of D-5k permits that may be issued.

(6) The fee for the D-5k permit is one thousand eight hundred seventy-five dollars.

(L)(1) Permit D-5l may be issued to the owner or the operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code to sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold and to sell beer and intoxicating liquor in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The holder of a D-5l permit may exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

(2) The D-5l permit shall be issued only to a premises to which all of the following apply:

(a) The premises has gross annual receipts from the sale of food and meals that constitute not less than seventy-five per cent of its total gross annual receipts.

(b) The premises is located within a revitalization district that is designated under section 4301.81 of the Revised Code.

(c) The premises is located in a municipal corporation or township in which the number of D-5 permits issued equals or exceeds the number of those permits that may be issued in that municipal corporation or township under section 4303.29 of the Revised Code.

(d) The premises meets any of the following qualifications:

(i) It is located in a county with a population of one hundred twenty-five thousand or less according to the population estimates certified by the development services agency for calendar year 2006.

(ii) It is located in the municipal corporation that has the largest population in a county when the county has a population between two hundred fifteen thousand and two hundred twenty-five thousand according to the population estimates certified by the development services agency for calendar year 2006. Division (L)(2)(d)(ii) of this section applies only to a municipal corporation that

is wholly located in a county.

(iii) It is located in the municipal corporation that has the largest population in a county when the county has a population between one hundred forty thousand and one hundred forty-one thousand according to the population estimates certified by the development services agency for calendar year 2006. Division (L)(2)(d)(iii) of this section applies only to a municipal corporation that is wholly located in a county.

(iv) It is located in a township with a population density of less than four hundred fifty people per square mile. For purposes of division (L)(2)(d)(iv) of this section, the population of a township is considered to be the population shown by the most recent regular federal decennial census.

(v) It is located in a municipal corporation that is wholly located within the geographic boundaries of a township, provided that the municipal corporation and the unincorporated portion of the township have a combined population density of less than four hundred fifty people per square mile. For purposes of division (L)(2)(d)(v) of this section, the population of a municipal corporation and unincorporated portion of a township is the population shown by the most recent federal decennial census.

(vi) It is located in a county with a population of not less than one hundred seventy-two thousand and not more than one hundred ninety-five thousand. For purposes of division (L)(2)(d)(vi) of this section, the population of a county is the population shown by the most recent decennial census.

(3) The location of a D-5l permit may be transferred only within the geographic boundaries of the revitalization district in which it was issued and shall not be transferred outside the geographic boundaries of that district.

(4) Not more than one D-5l permit shall be issued within each revitalization district for each five acres of land located within the district. Not more than fifteen D-5l permits may be issued within a single revitalization district. Except as otherwise provided in division (L)(4) of this section, no quota restrictions shall be placed upon the number of D-5l permits that may be issued.

(5) No D-5l permit shall be issued to an adult entertainment establishment as defined in section 2907.39 of the Revised Code.

(6) The fee for a D-5l permit is two thousand three hundred forty-four dollars.

(M) Permit D-5m may be issued to either the owner or the operator of a retail food establishment or food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is located in, or affiliated with, a center for the preservation of wild animals as defined in section 4301.404 of the Revised Code, to sell beer and any intoxicating liquor at retail, only by the glass and from the container, for consumption on the premises where sold, and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized by this division, the holder of a D-5m permit may exercise the same privileges as the holder of a D-5 permit.

A D-5m permit shall not be transferred to another location. No quota restrictions shall be placed on the number of D-5m permits that may be issued. The fee for a permit D-5m is two thousand three hundred forty-four dollars.

(N) Permit D-5n shall be issued to either a casino operator or a casino management company

licensed under Chapter 3772. of the Revised Code that operates a casino facility under that chapter, to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized by this division, the holder of a D-5n permit may exercise the same privileges as the holder of a D-5 permit. A D-5n permit shall not be transferred to another location. Only one D-5n permit may be issued per casino facility and not more than four D-5n permits shall be issued in this state. The fee for a permit D-5n shall be twenty thousand dollars. The holder of a D-5n permit may conduct casino gaming on the permit premises notwithstanding any provision of the Revised Code or Administrative Code.

(O) Permit D-5o may be issued to the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is located within a casino facility for which a D-5n permit has been issued. The holder of a D-5o permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and may sell the same products in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized by this division, the holder of a D-5o permit may exercise the same privileges as the holder of a D-5 permit. A D-5o permit shall not be transferred to another location. No quota restrictions shall be placed on the number of such permits that may be issued. The fee for this permit is two thousand three hundred forty-four dollars.

**Sec. 4303.182.** (A) Except as otherwise provided in divisions (B) to (K) of this section, permit D-6 shall be issued to the holder of an A-1-A, A-2, A-2f, A-3a, C-2, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, or D-7 permit to allow sale under that permit as follows:

(1) Between the hours of ten a.m. and midnight on Sunday if sale during those hours has been approved under question (C)(1), (2), or (3) of section 4301.351 or 4301.354 of the Revised Code, under question (B)(2) of section 4301.355 of the Revised Code, or under section 4301.356 of the Revised Code and has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code, under the restrictions of that authorization;

(2) Between the hours of eleven a.m. and midnight on Sunday, if sale during those hours has been approved on or after October 16, 2009, under question (B)(1), (2), or (3) of section 4301.351 or 4301.354 of the Revised Code, under question (B)(2) of section 4301.355 of the Revised Code, or under section 4301.356 of the Revised Code and has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code, under the restrictions of that authorization;

(3) Between the hours of eleven a.m. and midnight on Sunday if sale between the hours of one p.m. and midnight was approved before October 16, 2009, under question (B)(1), (2), or (3) of section 4301.351 or 4301.354 of the Revised Code, under question (B)(2) of section 4301.355 of the Revised Code, or under section 4301.356 of the Revised Code and has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code, under the other restrictions of that authorization.

(B) Permit D-6 shall be issued to the holder of any permit, including a D-4a and D-5d permit,

authorizing the sale of intoxicating liquor issued for a premises located at any publicly owned airport, as defined in section 4563.01 of the Revised Code, at which commercial airline companies operate regularly scheduled flights on which space is available to the public, to allow sale under such permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(C) Permit D-6 shall be issued to the holder of a D-5a permit, and to the holder of a D-3 or D-3a permit who is the owner or operator of a hotel or motel that is required to be licensed under section 3731.03 of the Revised Code, that contains at least fifty rooms for registered transient guests, and that has on its premises a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and is affiliated with the hotel or motel and within or contiguous to the hotel or motel and serving food within the hotel or motel, to allow sale under such permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(D) The holder of a D-6 permit that is issued to a sports facility may make sales under the permit between the hours of eleven a.m. and midnight on any Sunday on which a professional baseball, basketball, football, hockey, or soccer game is being played at the sports facility. As used in this division, "sports facility" means a stadium or arena that has a seating capacity of at least four thousand and that is owned or leased by a professional baseball, basketball, football, hockey, or soccer franchise or any combination of those franchises.

(E) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of beer or intoxicating liquor and that is issued to a premises located in or at the Ohio history connection area or the state fairgrounds, as defined in division (B) of section 4301.40 of the Revised Code, to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(F) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of intoxicating liquor and that is issued to an outdoor performing arts center to allow sale under that permit between the hours of one p.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361 of the Revised Code. A D-6 permit issued under this division is subject to the results of an election, held after the D-6 permit is issued, on question (B)(4) as set forth in section 4301.351 of the Revised Code. Following the end of the period during which an election may be held on question (B)(4) as set forth in that section, sales of intoxicating liquor may continue at an outdoor performing arts center under a D-6 permit issued under this division, unless an election on that question is held during the permitted period and a majority of the voters voting in the precinct on that question vote "no."

As used in this division, "outdoor performing arts center" means an outdoor performing arts center that is located on not less than eight hundred acres of land and that is open for performances from the first day of April to the last day of October of each year.

(G) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of beer or intoxicating liquor and that is issued to a golf course owned by the state, a conservancy district, a park district created under Chapter 1545. of the Revised Code, or another political subdivision to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not



that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(H) Permit D-6 shall be issued to the holder of a D-5g permit to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(I) Permit D-6 shall be issued to the holder of any D permit for a premises that is licensed under Chapter 3717. of the Revised Code and that is located at a ski area to allow sale under the D-6 permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

As used in this division, "ski area" means a ski area as defined in section 4169.01 of the Revised Code, provided that the passenger tramway operator at that area is registered under section 4169.03 of the Revised Code.

(J) Permit D-6 shall be issued to the holder of any permit that is described in division (A) of this section for a permit premises that is located in a community entertainment district, as defined in section 4301.80 of the Revised Code, that was approved by the legislative authority of a municipal corporation under that section between October 1 and October 15, 2005, to allow sale under the permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(K) A D-6 permit shall be issued to the holder of any D permit for a premises that is licensed under Chapter 3717. of the Revised Code and that is located in a state park to allow sales under the D-6 permit between the hours of ten a.m. and midnight on Sunday, whether or not those sales have been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

As used in this division, "state park" means a state park that is established or dedicated under Chapter 1546. of the Revised Code and that has a working farm on its property.

(L) If the restriction to licensed premises where the sale of food and other goods and services exceeds fifty per cent of the total gross receipts of the permit holder at the premises is applicable, the division of liquor control may accept an affidavit from the permit holder to show the proportion of the permit holder's gross receipts derived from the sale of food and other goods and services. If the liquor control commission determines that affidavit to have been false, it shall revoke the permits of the permit holder at the premises concerned.

(M) The fee for the D-6 permit is five hundred dollars when it is issued to the holder of an A-1-A, A-2, A-2f, A-3a, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, or D-7 permit. The fee for the D-6 permit is four hundred dollars when it is issued to the holder of a C-2 permit.

**Sec. 4303.184.** (A) Subject to division (B) of this section, a D-8 permit may be issued to any of the following:

(1) An agency store;

(2) The holder of a C-1, C-2, or C-2x permit issued to a retail store that has any of the following characteristics:

(a) The store has at least five thousand five hundred square feet of floor area, and it generates more than sixty per cent of its sales in general merchandise items and food for consumption off the premises where sold.

(b) The store is located in a municipal corporation or township with a population of five thousand or less, has at least four thousand five hundred square feet of floor area, and generates more than sixty per cent of its sales in general merchandise items and food for consumption off the premises where sold.

(c) Wine constitutes at least sixty per cent of the value of the store's inventory.

(3) The holder of both a C-1 and C-2 permit, or the holder of a C-2x permit, issued to a retail store that is located within a municipal corporation or township with a population of fifteen thousand or less.

(B) A D-8 permit may be issued to the holder of a C-1, C-2, or C-2x permit only if the premises of the permit holder are located in a precinct, or at a particular location in a precinct, in which the sale of beer, wine, or mixed beverages is permitted for consumption off the premises where sold. Sales under a D-8 permit are not affected by whether sales for consumption on the premises where sold are permitted in the precinct or at the particular location where the D-8 premises are located.

(C)(1) The holder of a D-8 permit described in division (A)(2) or (3) of this section may sell tasting samples of beer, wine, and mixed beverages, but not spirituous liquor, at retail, for consumption on the premises where sold in an amount not to exceed two ounces or another amount designated by rule of the liquor control commission. A tasting sample shall not be sold for general consumption.

(2) The holder of a D-8 permit described in division (A)(1) of this section may allow the sale of tasting samples of spirituous liquor in accordance with section 4301.171 of the Revised Code.

(3) No D-8 permit holder described in division (A)(2) or (3) of this section shall allow any authorized purchaser to consume more than four tasting samples of beer, wine, or mixed beverages, or any combination of beer, wine, or mixed beverages, per day.

(D)(1) Notwithstanding sections 4303.11 and 4303.121 of the Revised Code, the holder of a D-8 permit described in division (A)(2) or (3) of this section may sell beer that is dispensed from containers that have a capacity equal to or greater than five and one-sixth gallons if all of the following conditions are met:

(a) A product registration fee for the beer has been paid as required in division (A)(8)(b) of section 4301.10 of the Revised Code.

(b) The beer is dispensed only in glass containers whose capacity does not exceed one gallon and not for consumption on the premises where sold.

(c) The containers are sealed, marked, and transported in accordance with division (E) of section 4301.62 of the Revised Code.

(d) The containers have been cleaned immediately before being filled in accordance with rule 4301:1-1-28 of the Administrative Code.

(2) Beer that is sold and dispensed under division (D)(1) of this section is subject to both of the following:

(a) All applicable rules adopted by the liquor control commission, including, but not limited to, rule 4301:1-1-27 and rule 4301:1-1-72 of the Administrative Code;

(b) All applicable federal laws and regulations.

(E) The privileges authorized for the holder of a D-8 permit described in division (A)(2) or

(3) of this section may only be exercised in conjunction with and during the hours of operation authorized by a C-1, C-2, C-2x, or D-6 permit.

(F) A D-8 permit shall not be transferred to another location.

(G) The fee for the D-8 permit is five hundred dollars.

**Sec. 4501.21.** (A) There is hereby created in the state treasury the license plate contribution fund. The fund shall consist of all contributions paid by motor vehicle registrants and collected by the registrar of motor vehicles pursuant to sections 4503.491, 4503.492, 4503.493, 4503.494, 4503.495, 4503.496, 4503.497, 4503.498, 4503.499, 4503.4910, 4503.4911, 4503.50, 4503.501, 4503.502, 4503.505, 4503.51, 4503.514, 4503.521, 4503.522, 4503.523, 4503.524, 4503.525, 4503.526, 4503.528, 4503.529, 4503.531, 4503.534, 4503.545, 4503.55, 4503.551, 4503.552, 4503.553, 4503.554, 4503.555, 4503.556, 4503.561, 4503.562, 4503.564, 4503.565, 4503.566, 4503.576, 4503.577, 4503.591, 4503.592, 4503.594, 4503.67, 4503.68, 4503.69, 4503.701, 4503.702, 4503.71, 4503.711, 4503.712, 4503.713, 4503.715, 4503.72, 4503.722, 4503.73, 4503.732, 4503.733, 4503.74, 4503.75, 4503.751, 4503.752, 4503.763, 4503.764, 4503.85, 4503.86, 4503.87, 4503.871, 4503.873, 4503.874, 4503.875, 4503.876, 4503.877, 4503.878, 4503.879, 4503.88, 4503.89, 4503.891, 4503.892, 4503.90, 4503.901, 4503.902, 4503.903, 4503.904, 4503.905, 4503.906, 4503.907, 4503.908, 4503.92, 4503.94, 4503.951, 4503.97, and 4503.98 of the Revised Code.

(B) The registrar shall pay the contributions the registrar collects in the fund as follows:

The registrar shall pay the contributions received pursuant to section 4503.491 of the Revised Code to the breast cancer fund of Ohio, which shall use that money only to pay for programs that provide assistance and education to Ohio breast cancer patients and that improve access for such patients to quality health care and clinical trials and shall not use any of the money for abortion information, counseling, services, or other abortion-related activities.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.492 of the Revised Code to the organization cancer support community central Ohio, which shall deposit the money into the Sheryl L. Kraner Fund of that organization. Cancer support community central Ohio shall expend the money it receives pursuant to this division only in the same manner and for the same purposes as that organization expends other money in that fund.

The registrar shall pay the contributions received pursuant to section 4503.493 of the Revised Code to the autism society of Ohio, which shall use the contributions for programs and autism awareness efforts throughout the state.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.494 of the Revised Code to the national multiple sclerosis society for distribution in equal amounts to the northwestern Ohio, Ohio buckeye, and Ohio valley chapters of the national multiple sclerosis society. These chapters shall use the money they receive under this section to assist in paying the expenses they incur in providing services directly to their clients.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.495 of the Revised Code to the national pancreatic cancer foundation, which shall use the money it receives under this section to assist those who suffer with pancreatic cancer and their families.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.496 of the Revised Code to the Ohio sickle cell and health association, which shall use the contributions to help support educational, clinical, and social support services for adults who have sickle cell disease.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.497 of the Revised Code to the St. Baldrick's foundation, which shall use the contributions for its research and other programs.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.498 of the Revised Code to special olympics Ohio, inc., which shall use the contributions for its programs, charitable efforts, and other activities.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.499 of the Revised Code to the children's glioma cancer foundation, which shall use the contributions for its research and other programs.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.4910 of the Revised Code to the KylerStrong foundation, which shall use the contributions to raise awareness of brain cancer caused by diffuse intrinsic pontine glioma and to fund research for the cure of such cancer.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.4911 of the Revised Code to the research institution for childhood cancer at nationwide children's hospital, which shall use the contributions to fund research for the cure of childhood cancers.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.50 of the Revised Code to the future farmers of America foundation, which shall deposit the contributions into its general account to be used for educational and scholarship purposes of the future farmers of America foundation.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.501 of the Revised Code to the 4-H youth development program of the Ohio state university extension program, which shall use those contributions to pay the expenses it incurs in conducting its educational activities.

The registrar shall pay the contributions received pursuant to section 4503.502 of the Revised Code to the Ohio cattlemen's foundation, which shall use those contributions for scholarships and other educational activities.

The registrar shall pay the contributions received pursuant to section 4503.505 of the Revised Code to the organization Ohio region phi theta kappa, which shall use those contributions for scholarships for students who are members of that organization.

The registrar shall pay each contribution the registrar receives pursuant to section 4503.51 of the Revised Code to the university or college whose name or marking or design appears on collegiate license plates that are issued to a person under that section. A university or college that receives contributions from the fund shall deposit the contributions into its general scholarship fund.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.514 of the Revised Code to the university of Notre Dame in South Bend, Indiana, for purposes of awarding grants or scholarships to residents of Ohio who attend the university. The university shall not use any of the funds it receives for purposes of administering the scholarship program. The registrar shall enter into appropriate agreements with the university of Notre Dame to effectuate the distribution of such funds as provided in this section.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.521 of the Revised Code to the Ohio bicycle federation to assist that organization in paying for the

educational programs it sponsors in support of Ohio cyclists of all ages.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.522 of the Revised Code to the "friends of Perry's victory and international peace memorial, incorporated," a nonprofit corporation organized under the laws of this state, to assist that organization in paying the expenses it incurs in sponsoring or holding charitable, educational, and cultural events at the monument.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.523 of the Revised Code to the fairport lights foundation, which shall use the money to pay for the restoration, maintenance, and preservation of the lighthouses of fairport harbor.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.524 of the Revised Code to the Massillon tiger football booster club, which shall use the contributions only to promote and support the football team of Washington high school of the Massillon city school district.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.525 of the Revised Code to the United States power squadron districts seven, eleven, twenty-four, and twenty-nine in equal amounts. Each power squadron district shall use the money it receives under this section to pay for the educational boating programs each district holds or sponsors within this state.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.526 of the Revised Code to the Ohio district Kiwanis foundation of the Ohio district of Kiwanis international, which shall use the money it receives under this section to pay the costs of its educational and humanitarian activities.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.528 of the Revised Code to the Ohio association of child caring agencies, which shall use the money it receives under this section to pay the expenses it incurs in advancing its mission of sustainably improving the provision of services to children, young adults, and families in this state.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.529 of the Revised Code to the Ohio nurses foundation. The foundation shall use the money it receives under this section to provide educational scholarships to assist individuals who aspire to join the nursing profession, to assist nurses in the nursing profession who seek to advance their education, and to support persons conducting nursing research concerning the evidence-based practice of nursing and the improvement of patient outcomes.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.531 of the Revised Code to the thank you foundation, incorporated, a nonprofit corporation organized under the laws of this state, to assist that organization in paying for the charitable activities and programs it sponsors in support of United States military personnel, veterans, and their families.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.534 of the Revised Code to the disabled American veterans department of Ohio, to be used for programs that serve disabled American veterans and their families.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.55 of the Revised Code to the pro football hall of fame, which shall deposit the contributions into a special bank account that it establishes and which shall be separate and distinct from any other account the

pro football hall of fame maintains, to be used exclusively for the purpose of promoting the pro football hall of fame as a travel destination.

The registrar shall pay the contributions that are paid to the registrar pursuant to section 4503.545 of the Revised Code to the national rifle association foundation, which shall use the money to pay the costs of the educational activities and programs the foundation holds or sponsors in this state.

The registrar shall pay to the Ohio pet fund the contributions the registrar receives pursuant to section 4503.551 of the Revised Code and any other money from any other source, including donations, gifts, and grants, that is designated by the source to be paid to the Ohio pet fund. The Ohio pet fund shall use the moneys it receives under this section to support programs for the sterilization of dogs and cats and for educational programs concerning the proper veterinary care of those animals, and for expenses of the Ohio pet fund that are reasonably necessary for it to obtain and maintain its tax-exempt status and to perform its duties.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.552 of the Revised Code to the rock and roll hall of fame and museum, incorporated.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.553 of the Revised Code to the Ohio coalition for animals, incorporated, a nonprofit corporation. Except as provided in division (B) of this section, the coalition shall distribute the money to its members, and the members shall use the money only to pay for educational, charitable, and other programs of each coalition member that provide care for unwanted, abused, and neglected horses. The Ohio coalition for animals may use a portion of the money to pay for reasonable marketing costs incurred in the design and promotion of the license plate and for administrative costs incurred in the disbursement and management of funds received under this section.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.554 of the Revised Code to the Ohio state council of the knights of Columbus, which shall use the contributions to pay for its charitable activities and programs.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.555 of the Revised Code to the western reserve historical society, which shall use the contributions to fund the Crawford auto aviation museum.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.556 of the Revised Code to the Erica J. Holloman foundation, inc., for the awareness of triple negative breast cancer. The foundation shall use the contributions for charitable and educational purposes.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.561 of the Revised Code to the state of Ohio chapter of ducks unlimited, inc., which shall deposit the contributions into a special bank account that it establishes. The special bank account shall be separate and distinct from any other account the state of Ohio chapter of ducks unlimited, inc., maintains and shall be used exclusively for the purpose of protecting, enhancing, restoring, and managing wetlands and conserving wildlife habitat. The state of Ohio chapter of ducks unlimited, inc., annually shall notify the registrar in writing of the name, address, and account to which such payments are to be made.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.562 of the Revised Code to the Mahoning river consortium, which shall use the money to pay the expenses

it incurs in restoring and maintaining the Mahoning river watershed.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.564 of the Revised Code to Antioch college for the use of the Glen Helen ecology institute to pay expenses related to the Glen Helen nature preserve.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.565 of the Revised Code to the conservancy for Cuyahoga valley national park, which shall use the money in support of the park.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.566 of the Revised Code to the Ottawa national wildlife refuge, which shall use the contributions for wildlife preservation purposes.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.576 of the Revised Code to the Ohio state beekeepers association, which shall use those contributions to promote beekeeping, provide educational information about beekeeping, and to support other state and local beekeeping programs.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.577 of the Revised Code to the national aviation hall of fame, which shall use the contributions to fulfill its mission of honoring aerospace legends to inspire future leaders.

The registrar shall pay to a sports commission created pursuant to section 4503.591 of the Revised Code each contribution the registrar receives under that section that an applicant pays to obtain license plates that bear the logo of a professional sports team located in the county of that sports commission and that is participating in the license plate program pursuant to division (E) of that section, irrespective of the county of residence of an applicant.

The registrar shall pay to a community charity each contribution the registrar receives under section 4503.591 of the Revised Code that an applicant pays to obtain license plates that bear the logo of a professional sports team that is participating in the license plate program pursuant to division (G) of that section.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.592 of the Revised Code to pollinator partnership's monarch wings across Ohio program, which shall use the contributions for the protection and preservation of the monarch butterfly and pollinator corridor in Ohio and for educational programs.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.594 of the Revised Code to pelotonia, which shall use the contributions for the purpose of supporting cancer research.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.67 of the Revised Code to the Dan Beard council of the boy scouts of America. The council shall distribute all contributions in an equitable manner throughout the state to regional councils of the boy scouts.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.68 of the Revised Code to the great river council of the girl scouts of the United States of America. The council shall distribute all contributions in an equitable manner throughout the state to regional councils of the girl scouts.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.69 of the Revised Code to the Dan Beard council of the boy scouts of America. The council shall distribute

all contributions in an equitable manner throughout the state to regional councils of the boy scouts.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.701 of the Revised Code to the Prince Hall grand lodge of free and accepted masons of Ohio, which shall use the contributions for scholarship purposes.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.702 of the Revised Code to the Ohio Association of the Improved Benevolent and Protective Order of the Elks of the World, which shall use the funds for charitable purposes.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.71 of the Revised Code to the fraternal order of police of Ohio, incorporated, which shall deposit the fees into its general account to be used for purposes of the fraternal order of police of Ohio, incorporated.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.711 of the Revised Code to the fraternal order of police of Ohio, incorporated, which shall deposit the contributions into an account that it creates to be used for the purpose of advancing and protecting the law enforcement profession, promoting improved law enforcement methods, and teaching respect for law and order.

The registrar shall pay the contributions received pursuant to section 4503.712 of the Revised Code to Ohio concerns of police survivors, which shall use those contributions to provide whatever assistance may be appropriate to the families of Ohio law enforcement officers who are killed in the line of duty.

The registrar shall pay the contributions received pursuant to section 4503.713 of the Revised Code to the greater Cleveland peace officers memorial society, which shall use those contributions to honor law enforcement officers who have died in the line of duty and support its charitable purposes.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.715 of the Revised Code to the fallen linemen organization, which shall use the contributions to recognize and memorialize fallen linemen and support their families.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.72 of the Revised Code to the organization known on March 31, 2003, as the Ohio CASA/GAL association, a private, nonprofit corporation organized under Chapter 1702. of the Revised Code. The Ohio CASA/GAL association shall use these contributions to pay the expenses it incurs in administering a program to secure the proper representation in the courts of this state of abused, neglected, and dependent children, and for the training and supervision of persons participating in that program.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.722 of the Revised Code to the Down Syndrome Association of Central Ohio, which shall use the contributions for advocacy purposes throughout the state.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.73 of the Revised Code to Wright B. Flyer, incorporated, which shall deposit the contributions into its general account to be used for purposes of Wright B. Flyer, incorporated.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.732 of the Revised Code to the Siegel Shuster society, a nonprofit organization dedicated to commemorating and celebrating the creation of Superman in Cleveland, Ohio.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.733 of



the Revised Code to the central Ohio chapter of the juvenile diabetes research foundation, which shall distribute the contributions to the chapters of the juvenile diabetes research foundation in whose geographic territory the person who paid the contribution resides.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.74 of the Revised Code to the Columbus zoological park association, which shall disburse the moneys to Ohio's major metropolitan zoos, as defined in section 4503.74 of the Revised Code, in accordance with a written agreement entered into by the major metropolitan zoos.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.75 of the Revised Code to the rotary foundation, located on March 31, 2003, in Evanston, Illinois, to be placed in a fund known as the permanent fund and used to endow educational and humanitarian programs of the rotary foundation.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.751 of the Revised Code to the Ohio association of realtors, which shall deposit the contributions into a property disaster relief fund maintained under the Ohio realtors charitable and education foundation.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.752 of the Revised Code to buckeye corvettes, incorporated, which shall use the contributions to pay for its charitable activities and programs.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.763 of the Revised Code to the Ohio history connection to be used solely to build, support, and maintain the Ohio battleflag collection within the Ohio history connection.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.764 of the Revised Code to the Medina county historical society, which shall use those contributions to distribute between the various historical societies and museums in Medina county.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.85 of the Revised Code to the Ohio sea grant college program to be used for Lake Erie area research projects.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.86 of the Revised Code to the Ohio Lincoln highway historic byway, which shall use those contributions solely to promote and support the historical preservation and advertisement of the Lincoln highway in this state.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.87 of the Revised Code to the Grove City little league dream field fund, which shall use those contributions solely to build, maintain, and improve youth baseball fields within the municipal corporation of Grove City.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.871 of the Revised Code to the Solon city school district. The school district shall use the contributions it receives to pay the expenses it incurs in providing services to the school district's students that assist in developing or maintaining the mental and emotional well-being of the students. The services provided may include bereavement counseling, instruction in defensive driving techniques, sensitivity training, and the counseling and education of students regarding bullying, dating violence, drug abuse, suicide prevention, and human trafficking. The school district superintendent or, in the school district superintendent's discretion, the appropriate school principal or appropriate school

counselors shall determine any charitable organizations that the school district hires to provide those services. The school district also may use the contributions it receives to pay for members of the faculty of the school district to receive training in providing such services to the students of the school district. The school district shall ensure that any charitable organization that is hired by the district is exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code. The school district shall not use the contributions it receives for any other purpose.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.873 of the Revised Code to Padua Franciscan high school located in the municipal corporation of Parma. The school shall use fifty per cent of the contributions it receives to provide tuition assistance to its students. The school shall use the remaining fifty per cent to pay the expenses it incurs in providing services to the school's students that assist in developing or maintaining the mental and emotional well-being of the students. The services provided may include bereavement counseling, instruction in defensive driving techniques, sensitivity training, and the counseling and education of students regarding bullying, dating violence, drug abuse, suicide prevention, and human trafficking. As a part of providing such services, the school may pay for members of the faculty of the school to receive training in providing those services. The school principal or, in the school principal's discretion, appropriate school counselors shall determine any charitable organizations that the school hires to provide those services. The school shall ensure that any such charitable organization is exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code. The school shall not use the contributions it receives for any other purpose.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.874 of the Revised Code to St. Edward high school located in the municipal corporation of Lakewood. The school shall use fifty per cent of the contributions it receives to provide tuition assistance to its students. The school shall use the remaining fifty per cent to pay the expenses it incurs in providing services to the school's students that assist in developing or maintaining the mental and emotional well-being of the students. The services provided may include bereavement counseling, instruction in defensive driving techniques, sensitivity training, and the counseling and education of students regarding bullying, dating violence, drug abuse, suicide prevention, and human trafficking. As a part of providing such services, the school may pay for members of the faculty of the school to receive training in providing those services. The school principal or, in the school principal's discretion, appropriate school counselors shall determine any charitable organizations that the school hires to provide those services. The school shall ensure that any such charitable organization is exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code. The school shall not use the contributions it receives for any other purpose.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.875 of the Revised Code to Walsh Jesuit high school located in the municipal corporation of Cuyahoga Falls. The school shall use fifty per cent of the contributions it receives to provide tuition assistance to its students. The school shall use the remaining fifty per cent to pay the expenses it incurs in providing services to the school's students that assist in developing or maintaining the mental and emotional well-being of the students. The services provided may include bereavement counseling, instruction in defensive driving techniques, sensitivity training, and the counseling and education of students regarding bullying, dating violence, drug abuse, suicide prevention, and human trafficking.

As a part of providing such services, the school may pay for members of the faculty of the school to receive training in providing those services. The school principal or, in the school principal's discretion, appropriate school counselors shall determine any charitable organizations that the school hires to provide those services. The school shall ensure that any such charitable organization is exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code. The school shall not use the contributions it receives for any other purpose.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.876 of the Revised Code to the North Royalton city school district. The school district shall use the contributions it receives to pay the expenses it incurs in providing services to the school district's students that assist in developing or maintaining the mental and emotional well-being of the students. The services provided may include bereavement counseling, instruction in defensive driving techniques, sensitivity training, and the counseling and education of students regarding bullying, dating violence, drug abuse, suicide prevention, and human trafficking. The school district superintendent or, in the school district superintendent's discretion, the appropriate school principal or appropriate school counselors shall determine any charitable organizations that the school district hires to provide those services. The school district also may use the contributions it receives to pay for members of the faculty of the school district to receive training in providing such services to the students of the school district. The school district shall ensure that any charitable organization that is hired by the district is exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code. The school district shall not use the contributions it receives for any other purpose.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.877 of the Revised Code to the Independence local school district. The school district shall use the contributions it receives to pay the expenses it incurs in providing services to the school district's students that assist in developing or maintaining the mental and emotional well-being of the students. The services provided may include bereavement counseling, instruction in defensive driving techniques, sensitivity training, and the counseling and education of students regarding bullying, dating violence, drug abuse, suicide prevention, and human trafficking. The school district superintendent or, in the school district superintendent's discretion, the appropriate school principal or appropriate school counselors shall determine any charitable organizations that the school district hires to provide those services. The school district also may use the contributions it receives to pay for members of the faculty of the school district to receive training in providing such services to the students of the school district. The school district shall ensure that any charitable organization that is hired by the district is exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code. The school district shall not use the contributions it receives for any other purpose.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.878 of the Revised Code to the Cuyahoga Heights local school district. The school district shall use the contributions it receives to pay the expenses it incurs in providing services to the school district's students that assist in developing or maintaining the mental and emotional well-being of the students. The services provided may include bereavement counseling, instruction in defensive driving techniques, sensitivity training, and the counseling and education of students regarding bullying,

dating violence, drug abuse, suicide prevention, and human trafficking. The school district superintendent or, in the school district superintendent's discretion, the appropriate school principal or appropriate school counselors, shall determine any charitable organizations that the school district hires to provide those services. The school district also may use the contributions it receives to pay for members of the faculty of the school district to receive training in providing such services to the students of the school district. The school district shall ensure that any charitable organization that is hired by the district is exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code. The school district shall not use the contributions it receives for any other purpose.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.879 of the Revised Code to the west technical high school alumni association, which shall use the contributions for activities sponsored by the association.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.88 of the Revised Code to the Kenston local school district. The school district shall use the contributions it receives to pay the expenses it incurs in providing services that assist in developing or maintaining a culture of environmental responsibility and an innovative science, technology, engineering, art, and math (S.T.E.A.M.) curriculum to the school district's students. The school district shall not use the contributions it receives for any other purpose.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.89 of the Revised Code to the American red cross of greater Columbus on behalf of the Ohio chapters of the American red cross, which shall use the contributions for disaster readiness, preparedness, and response programs on a statewide basis.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.891 of the Revised Code to the Ohio lions foundation. The foundation shall use the contributions for charitable and educational purposes.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.892 of the Revised Code to the Hudson city school district. The school district shall not use the contributions it receives for any political purpose.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.90 of the Revised Code to the nationwide children's hospital foundation.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.901 of the Revised Code to the Ohio association for pupil transportation, which shall use the money to support transportation programs, provide training to school transportation professionals, and support other initiatives for school transportation safety.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.902 of the Revised Code to St. Ignatius high school located in the municipal corporation of Cleveland. The school shall use fifty per cent of the contributions it receives to provide tuition assistance to its students. The school shall use the remaining fifty per cent to pay the expenses it incurs in providing services to the school's students that assist in developing or maintaining the mental and emotional well-being of the students. The services provided may include bereavement counseling, instruction in defensive driving techniques, sensitivity training, and the counseling and education of students regarding bullying, dating violence, drug abuse, suicide prevention, and human trafficking. As a part

of providing such services, the school may pay for members of the faculty of the school to receive training in providing those services. The school principal or, in the school principal's discretion, appropriate school counselors shall determine any charitable organizations that the school hires to provide those services. The school shall ensure that any such charitable organization is exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code. The school shall not use the contributions it receives for any other purpose.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.903 of the Revised Code to the Brecksville-Broadview Heights city school district. The school district shall use the contributions it receives to pay the expenses it incurs in providing services to the school district's students that assist in developing or maintaining the mental and emotional well-being of the students. The services provided may include bereavement counseling, instruction in defensive driving techniques, sensitivity training, and the counseling and education of students regarding bullying, dating violence, drug abuse, suicide prevention, and human trafficking. The school district superintendent or, in the school district superintendent's discretion, the appropriate school principal or appropriate school counselors shall determine any charitable organizations that the school district hires to provide those services. The school district also may use the contributions it receives to pay for members of the faculty of the school district to receive training in providing such services to the students of the school district. The school district shall ensure that any charitable organization that is hired by the district is exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code. The school district shall not use the contributions it receives for any other purpose.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.904 of the Revised Code to the Chagrin Falls exempted village school district. The school district shall use the contributions it receives to pay the expenses it incurs in providing services to the school district's students that assist in developing or maintaining the mental and emotional well-being of the students. The services provided may include bereavement counseling, instruction in defensive driving techniques, sensitivity training, and the counseling and education of students regarding bullying, dating violence, drug abuse, suicide prevention, and human trafficking. The school district superintendent or, in the school district superintendent's discretion, the appropriate school principal or appropriate school counselors shall determine any charitable organizations that the school district hires to provide those services. The school district also may use the contributions it receives to pay for members of the faculty of the school district to receive training in providing such services to the students of the school district. The school district shall ensure that any charitable organization that is hired by the district is exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code. The school district shall not use the contributions it receives for any other purpose.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.905 of the Revised Code to the Cuyahoga valley career center. The career center shall use the contributions it receives to pay the expenses it incurs in providing services to the career center's students that assist in developing or maintaining the mental and emotional well-being of the students. The services provided may include bereavement counseling, instruction in defensive driving techniques, sensitivity training, and the counseling and education of students regarding bullying, dating violence,

drug abuse, suicide prevention, and human trafficking. The career center's superintendent or in the career center's superintendent's discretion, the school board or appropriate school counselors shall determine any charitable organizations that the career center hires to provide those services. The career center also may use the contributions it receives to pay for members of the faculty of the career center to receive training in providing such services to the students of the career center. The career center shall ensure that any charitable organization that is hired by the career center is exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code. The career center shall not use the contributions it receives for any other purpose.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.906 of the Revised Code to the Stow-Munroe Falls city school district. The school district shall not use the contributions it receives for any political purpose.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.907 of the Revised Code to the Twinsburg city school district. The school district shall not use the contributions it receives for any political purpose.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.908 of the Revised Code to St. Xavier high school located in Springfield township in Hamilton county. The school shall use fifty per cent of the contributions it receives to provide tuition assistance to its students. The school shall use the remaining fifty per cent to pay the expenses it incurs in providing services to the school's students that assist in developing or maintaining the mental and emotional well-being of the students. The services provided may include bereavement counseling, instruction in defensive driving techniques, sensitivity training, and the counseling and education of students regarding bullying, dating violence, drug abuse, suicide prevention, and human trafficking. As a part of providing such services, the school may pay for members of the faculty of the school to receive training in providing those services. The school principal or, in the school principal's discretion, appropriate school counselors shall determine any charitable organizations that the school hires to provide those services. The school shall ensure that any such charitable organization is exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code. The school shall not use the contributions it receives for any other purpose.

The registrar shall pay the contributions received pursuant to section 4503.92 of the Revised Code to support our troops, incorporated, a national nonprofit corporation, which shall use those contributions in accordance with its articles of incorporation and for the benefit of servicemembers of the armed forces of the United States and their families when they are in financial need.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.94 of the Revised Code to the Michelle's leading star foundation, which shall use the money solely to fund the rental, lease, or purchase of the simulated driving curriculum of the Michelle's leading star foundation by boards of education of city, exempted village, local, and joint vocational school districts.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.951 of the Revised Code to the Cincinnati city school district.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.97 of the Revised Code to the friends of united Hatzalah of Israel, which shall use the money to support united Hatzalah of Israel, which provides free emergency medical first response throughout Israel.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.98 of the Revised Code to the Westerville parks foundation to support the programs and activities of the foundation and its mission of pursuing the city of Westerville's vision of becoming "A City Within A Park."

(C) All investment earnings of the license plate contribution fund shall be credited to the fund. Not later than the first day of May of every year, the registrar shall distribute to each entity described in division (B) of this section the investment income the fund earned the previous calendar year. The amount of such a distribution paid to an entity shall be proportionate to the amount of money the entity received from the fund during the previous calendar year.

**Sec. 4503.181.** (A) As used in this section, "historical motor vehicle" means any motor vehicle that is more than twenty-five years old and that is owned solely as a collector's item and for participation in club activities, exhibitions, tours, parades, and similar uses. A historical motor vehicle shall not be used for general transportation, but may be operated on the public roads and highways to and from a location where maintenance is performed on the vehicle.

(B) In lieu of the annual license tax levied in sections 4503.02 and 4503.04 of the Revised Code, a license fee of ten dollars is levied on the operation of a historical motor vehicle.

(C) A person who owns a historical motor vehicle and applies for a historical license plate under this section shall execute an affidavit that the vehicle for which the plate is requested is owned and operated solely for the purposes enumerated in division (A) of this section. The affidavit also shall set forth that the vehicle has been inspected and found safe to operate on the public roads and highways in the state. A person who owns a historical motor vehicle and desires to display a model year license plate on the vehicle as permitted by this section shall execute at the time of registration an affidavit setting forth that the model year license plate the person desires to display on the person's historical motor vehicle is a legible and serviceable license plate that originally was issued by this state. No registration issued pursuant to this section need specify the weight of the vehicle.

(D) A vehicle registered under this section may display either a historical vehicle license plate issued by the registrar of motor vehicles or a model year license plate procured by the applicant. A historical vehicle license plate shall not bear a date, but shall bear the inscription "Historical Vehicle--Ohio" and the registration number, which shall be shown thereon. A model year license plate shall be a legible and serviceable license plate issued by this state and inscribed with the date of the year corresponding to the model year when the vehicle was manufactured. Two model year license plates, duplicates of each other, may be displayed on the historical motor vehicle at any time, one plate on the front and one plate on the rear of the vehicle. The registration certificate and the historical vehicle license plate issued by the registrar shall be kept in the vehicle at all times the vehicle is operated on the public roads and highways in this state.

Notwithstanding section 4503.21 of the Revised Code, the owner of a historical motor vehicle that was manufactured for military purposes and that is registered under this section may display the assigned registration number of the vehicle by painting the number on the front and rear of the vehicle. The number shall be painted, in accordance with the size and style specifications established for numerals and letters shown on license plates in section 4503.22 of the Revised Code, in a color that contrasts clearly with the color of the vehicle, and shall be legible and visible at all times. Upon application for registration under this section and payment of the license fee prescribed

in division (B) of this section, the owner of such a historical motor vehicle shall be issued a historical vehicle license plate. The registration certificate and the license plate shall be kept in the vehicle at all times the vehicle is operated on the public roads and highways in this state. If ownership of such a vehicle is transferred, the transferor shall surrender the historical vehicle license plate or transfer it to another historical motor vehicle the transferor owns, and remove or obliterate the registration numbers painted on the vehicle.

(E) Historical vehicle and model year license plates are valid without renewal as long as the vehicle for which they were issued or procured is in existence. A historical vehicle plate is issued for the owner's use only for such vehicle unless later transferred to another historical motor vehicle owned by that person. In order to effect such a transfer, the owner of the historical motor vehicle that originally displayed the historical vehicle plate shall comply with division (C) of this section. In the event of a transfer of title, the transferor shall surrender the historical vehicle license plate or transfer it to another historical motor vehicle owned by the transferor, but a model year license plate or plates may be retained by the transferor. The registrar may revoke license plates issued under this section, for cause shown and after hearing, for failure of the applicant to comply with this section. Upon revocation, a historical vehicle license plate shall be surrendered; a model year license plate or plates may be retained, but the plate or plates are no longer valid for display on the vehicle.

(F) The owner of a historical motor vehicle bearing a historical vehicle license plate may replace it with a model year license plate by surrendering the historical vehicle license plate and motor vehicle certificate of registration to the registrar. The owner, at the time of registration, shall execute an affidavit setting forth that the model year plate is a legible and serviceable license plate that originally was issued by this state. Such an owner is required to pay the license fee prescribed by division (B) of this section, but the owner is not required to have the historical motor vehicle reinspected under division (C) of this section.

A person who owns a historical motor vehicle bearing a model year license plate may replace it with a historical vehicle license plate by surrendering the motor vehicle certificate of registration and applying for issuance of a historical vehicle license plate. Such a person is required to pay the license fee prescribed by division (B) of this section, but the person is not required to have the historical motor vehicle reinspected under division (C) of this section.

**Sec. 4503.535.** (A) The owner or lessee of any passenger car, noncommercial motor vehicle, recreational vehicle, motorcycle, motorized bicycle or moped, trailer, or other vehicle of a class approved by the registrar of motor vehicles, and, effective January 1, 2017, the owner or lessee of any motor-driven cycle or motor scooter, autocycle, or cab-enclosed motorcycle, may apply to the registrar for the registration of the vehicle and issuance of POW/MIA awareness license plates. The application for POW/MIA awareness license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application and compliance with division (B) of this section, the registrar shall issue to the applicant the appropriate vehicle registration and a set of POW/MIA awareness license plates with a validation sticker, or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed thereon, POW/MIA awareness license plates shall bear the markings designed by rolling thunder, inc., chapter 1 Ohio. POW/MIA



awareness license plates, except for motorcycle, motorized bicycle, or moped license plates, also shall bear the words "not forgotten." The registrar shall approve the final design. POW/MIA awareness license plates shall bear county identification stickers that identify the county of registration as required under section 4503.19 of the Revised Code.

(B) POW/MIA awareness license plates and validation stickers shall be issued upon payment of the regular license tax as prescribed under section 4503.04 of the Revised Code, any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, a bureau of motor vehicles administrative fee of ten dollars, the contribution specified in division (C) of this section, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application for POW/MIA awareness license plates is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plates and validation sticker shall be issued upon payment of the contribution, fees, and taxes contained in this division and the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code.

(C) For each application for registration and registration renewal submitted under this section, the registrar shall collect a contribution of twenty-five dollars. The registrar shall pay this contribution into the state treasury to the credit of the military injury relief fund created in section 5902.05 of the Revised Code.

The registrar shall pay the ten-dollar bureau administrative fee, the purpose of which is to compensate the bureau for additional services required in issuing POW/MIA awareness license plates, into the state treasury to the credit of the public safety - highway purposes fund created in section 4501.06 of the Revised Code.

**Sec. 4503.581.**

**Sec. 4503.77.** (A) As used in this section:

(1) "Nonstandard license plate" means all of the following:

(a) A license plate issued under sections 4503.52, 4503.55, 4503.56, 4503.57, 4503.70, 4503.71, 4503.72, and 4503.75 of the Revised Code;

(b) A license plate issued under a program that is reestablished under division (D) of this section and that meets the requirements contained in division (B) of section 4503.78 of the Revised Code;

(c) Except as may otherwise be specifically provided by law, any license plate created after August 21, 1997.

(2) For purposes of license plates issued under sections 4503.503 and 4503.504 of the Revised Code, "sponsor" includes the director of agriculture.

(B)(1) If, during any calendar year, the total number of motor vehicle registrations involving a particular type of nonstandard license plate is less than twenty-five, including both new registrations and registration renewals, the registrar of motor vehicles, on or after the first day of January, but not later than the fifteenth day of January of the following year, shall send a written notice to the sponsor of that type of nonstandard license plate, if a sponsor exists, informing the sponsor of this fact. The registrar also shall inform the sponsor that if, during the calendar year in which the written notice is sent, the total number of motor vehicle registrations involving the sponsor's nonstandard license plate again is less than twenty-five, the program involving that type of nonstandard license plate will be terminated on the thirty-first day of December of the calendar year

in which the written notice is sent and, except as provided in division (C) of this section, no motor vehicle registration application involving either the actual issuance of that type of nonstandard license plate or the registration renewal of a motor vehicle displaying that type of nonstandard license plate will be accepted by the registrar or a deputy registrar beginning the first day of January of the next calendar year. The registrar also shall inform the sponsor that if the program involving the sponsor's nonstandard license plate is terminated under this section, it may be reestablished pursuant to division (D) of this section.

(2) If, during any calendar year, the total number of motor vehicle registrations involving a particular type of nonstandard license plate is less than twenty-five, including both new registrations and registration renewals, and no sponsor exists for that license plate, the registrar shall issue a public notice on or after the first day of January, but not later than the fifteenth day of January of the following year, stating that fact. The notice also shall inform the public that if, during the calendar year in which the registrar issues the public notice, the total number of motor vehicle registrations for that type of nonstandard license plate, including both new registrations and registration renewals, again is less than twenty-five, the program involving that type of nonstandard license plate will be terminated on the thirty-first day of December of the calendar year in which the registrar issues the public notice and, except as provided in division (C) of this section, no motor vehicle registration application involving either the actual issuance of that type of nonstandard license plate or the registration renewal of a motor vehicle displaying that type of nonstandard license plate will be accepted by the registrar or a deputy registrar beginning on the first day of January of the next calendar year.

(C) If the program involving a type of nonstandard license plate is terminated under division (B) of this section, the registration of any motor vehicle displaying that type of nonstandard license plate at the time of termination may be renewed so long as the nonstandard license plates remain serviceable. If the nonstandard license plates of such a motor vehicle become unfit for service, the owner of the motor vehicle may apply for the issuance of nonstandard license plates of that same type, but the registrar or deputy registrar shall issue such nonstandard license plates only if at the time of application the stock of the bureau contains license plates of that type of nonstandard license plate. If, at the time of such application, the stock of the bureau does not contain license plates of that type of nonstandard license plate, the registrar or deputy registrar shall inform the owner of that fact, and the application shall be refused.

If the program involving a type of nonstandard license plate is terminated under division (B) of this section and the registration of motor vehicles displaying such license plates continues as permitted by this division, the registrar, for as long as such registrations continue to be issued, shall continue to collect and distribute any contribution that was required to be collected and distributed prior to the termination of that program.

(D) If the program involving a nonstandard license plate is terminated under division (B)(1) of this section, the sponsor of that license plate may apply to the registrar for the reestablishment of the program. If the program involving that nonstandard license plate is reestablished, the reestablishment is subject to division (B) of section 4503.78 of the Revised Code.

**Sec. 4503.771.**

**Sec. 4503.78.** (A) Except as may otherwise be specifically provided by law, the registrar of

motor vehicles is not required to implement any legislation that creates a license plate and provides for its issuance until the registrar receives written statements from not less than one hundred fifty persons, indicating that they intend to apply for and obtain such license plates for their motor vehicles. The registrar may require such statements to be made on a form the registrar provides.

(B) If a program involving a nonstandard license plate is terminated under division (B)(1) of section 4503.77 of the Revised Code, the sponsor of that license plate may apply to the registrar for the reestablishment of that program, as permitted by division (D) of that section. The registrar shall not reestablish the program involving that nonstandard license plate until the registrar receives written statements from not less than twenty-five persons, indicating that they intend to apply for and obtain such license plates for their motor vehicles. The registrar may require such statements to be made on a form approved by the registrar.

In determining whether twenty-five persons have so indicated their intentions, the registrar shall include in the total the number of motor vehicles that continue to display the nonstandard license plate of the terminated program, as permitted by division (C) of section 4503.77 of the Revised Code.

**Sec. 4503.86.**

**Sec. 4505.06.** (A)(1) Application for a certificate of title shall be made in a form prescribed by the registrar of motor vehicles and shall be sworn to before a notary public or other officer empowered to administer oaths. The application shall be filed with the clerk of any court of common pleas. An application for a certificate of title may be filed electronically by any electronic means approved by the registrar in any county with the clerk of the court of common pleas of that county. Any payments required by this chapter shall be considered as accompanying any electronically transmitted application when payment actually is received by the clerk. Payment of any fee or taxes may be made by electronic transfer of funds.

(2) The application for a certificate of title shall be accompanied by the fee prescribed in section 4505.09 of the Revised Code. The fee shall be retained by the clerk who issues the certificate of title and shall be distributed in accordance with that section. If a clerk of a court of common pleas, other than the clerk of the court of common pleas of an applicant's county of residence, issues a certificate of title to the applicant, the clerk shall transmit data related to the transaction to the automated title processing system.

(3) If a certificate of title previously has been issued for a motor vehicle in this state, the application for a certificate of title also shall be accompanied by that certificate of title duly assigned, unless otherwise provided in this chapter. If a certificate of title previously has not been issued for the motor vehicle in this state, the application, unless otherwise provided in this chapter, shall be accompanied by a manufacturer's or importer's certificate or by a certificate of title of another state from which the motor vehicle was brought into this state. If the application refers to a motor vehicle last previously registered in another state, the application also shall be accompanied by the physical inspection certificate required by section 4505.061 of the Revised Code. If the application is made by two persons regarding a motor vehicle in which they wish to establish joint ownership with right of survivorship, they may do so as provided in section 2131.12 of the Revised Code. If the applicant requests a designation of the motor vehicle in beneficiary form so that upon the death of the owner of the motor vehicle, ownership of the motor vehicle will pass to a designated transfer-on-death

beneficiary or beneficiaries, the applicant may do so as provided in section 2131.13 of the Revised Code. A person who establishes ownership of a motor vehicle that is transferable on death in accordance with section 2131.13 of the Revised Code may terminate that type of ownership or change the designation of the transfer-on-death beneficiary or beneficiaries by applying for a certificate of title pursuant to this section. The clerk shall retain the evidence of title presented by the applicant and on which the certificate of title is issued, except that, if an application for a certificate of title is filed electronically by an electronic motor vehicle dealer on behalf of the purchaser of a motor vehicle, the clerk shall retain the completed electronic record to which the dealer converted the certificate of title application and other required documents. The registrar, after consultation with the attorney general, shall adopt rules that govern the location at which, and the manner in which, are stored the actual application and all other documents relating to the sale of a motor vehicle when an electronic motor vehicle dealer files the application for a certificate of title electronically on behalf of the purchaser. Not later than December 31, 2017, the registrar shall arrange for a service that enables all electronic motor vehicle dealers to file applications for certificates of title on behalf of purchasers of motor vehicles electronically by transferring the applications directly from the computer systems of the dealers to the clerk.

The clerk shall use reasonable diligence in ascertaining whether or not the facts in the application for a certificate of title are true by checking the application and documents accompanying it or the electronic record to which a dealer converted the application and accompanying documents with the records of motor vehicles in the clerk's office. If the clerk is satisfied that the applicant is the owner of the motor vehicle and that the application is in the proper form, the clerk, within five business days after the application is filed and except as provided in section 4505.021 of the Revised Code, shall issue a physical certificate of title over the clerk's signature and sealed with the clerk's seal, unless the applicant specifically requests the clerk not to issue a physical certificate of title and instead to issue an electronic certificate of title. For purposes of the transfer of a certificate of title, if the clerk is satisfied that the secured party has duly discharged a lien notation but has not canceled the lien notation with a clerk, the clerk may cancel the lien notation on the automated title processing system and notify the clerk of the county of origin.

(4) In the case of the sale of a motor vehicle to a general buyer or user by a dealer, by a motor vehicle leasing dealer selling the motor vehicle to the lessee or, in a case in which the leasing dealer subleased the motor vehicle, the sublessee, at the end of the lease agreement or sublease agreement, or by a manufactured housing broker, the certificate of title shall be obtained in the name of the buyer by the dealer, leasing dealer, or manufactured housing broker, as the case may be, upon application signed by the buyer. The certificate of title shall be issued, or the process of entering the certificate of title application information into the automated title processing system if a physical certificate of title is not to be issued shall be completed, within five business days after the application for title is filed with the clerk. If the buyer of the motor vehicle previously leased the motor vehicle and is buying the motor vehicle at the end of the lease pursuant to that lease, the certificate of title shall be obtained in the name of the buyer by the motor vehicle leasing dealer who previously leased the motor vehicle to the buyer or by the motor vehicle leasing dealer who subleased the motor vehicle to the buyer under a sublease agreement.

In all other cases, except as provided in section 4505.032 and division (D)(2) of section

4505.11 of the Revised Code, such certificates shall be obtained by the buyer.

(5)(a)(i) If the certificate of title is being obtained in the name of the buyer by a motor vehicle dealer or motor vehicle leasing dealer and there is a security interest to be noted on the certificate of title, the dealer or leasing dealer shall submit the application for the certificate of title and payment of the applicable tax to a clerk within seven business days after the later of the delivery of the motor vehicle to the buyer or the date the dealer or leasing dealer obtains the manufacturer's or importer's certificate, or certificate of title issued in the name of the dealer or leasing dealer, for the motor vehicle. Submission of the application for the certificate of title and payment of the applicable tax within the required seven business days may be indicated by postmark or receipt by a clerk within that period.

(ii) Upon receipt of the certificate of title with the security interest noted on its face, the dealer or leasing dealer shall forward the certificate of title to the secured party at the location noted in the financing documents or otherwise specified by the secured party.

(iii) A motor vehicle dealer or motor vehicle leasing dealer is liable to a secured party for a late fee of ten dollars per day for each certificate of title application and payment of the applicable tax that is submitted to a clerk more than seven business days but less than twenty-one days after the later of the delivery of the motor vehicle to the buyer or the date the dealer or leasing dealer obtains the manufacturer's or importer's certificate, or certificate of title issued in the name of the dealer or leasing dealer, for the motor vehicle and, from then on, twenty-five dollars per day until the application and applicable tax are submitted to a clerk.

(b) In all cases of transfer of a motor vehicle except the transfer of a manufactured home or mobile home, the application for certificate of title shall be filed within thirty days after the assignment or delivery of the motor vehicle.

(c) An application for a certificate of title for a new manufactured home shall be filed within thirty days after the delivery of the new manufactured home to the purchaser. The date of the delivery shall be the date on which an occupancy permit for the manufactured home is delivered to the purchaser of the home by the appropriate legal authority.

(d) An application for a certificate of title for a used manufactured home or a used mobile home shall be filed as follows:

(i) If a certificate of title for the used manufactured home or used mobile home was issued to the motor vehicle dealer prior to the sale of the manufactured or mobile home to the purchaser, the application for certificate of title shall be filed within thirty days after the date on which an occupancy permit for the manufactured or mobile home is delivered to the purchaser by the appropriate legal authority.

(ii) If the motor vehicle dealer has been designated by a secured party to display the manufactured or mobile home for sale, or to sell the manufactured or mobile home under section 4505.20 of the Revised Code, but the certificate of title has not been transferred by the secured party to the motor vehicle dealer, and the dealer has complied with the requirements of division (A) of section 4505.181 of the Revised Code, the application for certificate of title shall be filed within thirty days after the date on which the motor vehicle dealer obtains the certificate of title for the home from the secured party or the date on which an occupancy permit for the manufactured or mobile home is delivered to the purchaser by the appropriate legal authority, whichever occurs later.

(6) If an application for a certificate of title is not filed within the period specified in division (A)(5)(b), (c), or (d) of this section, the clerk shall collect a fee of five dollars for the issuance of the certificate, except that no such fee shall be required from a motor vehicle salvage dealer, as defined in division (A) of section 4738.01 of the Revised Code, who immediately surrenders the certificate of title for cancellation. The fee shall be in addition to all other fees established by this chapter, and shall be retained by the clerk. The registrar shall provide, on the certificate of title form prescribed by section 4505.07 of the Revised Code, language necessary to give evidence of the date on which the assignment or delivery of the motor vehicle was made.

(7) As used in division (A) of this section, "lease agreement," "lessee," and "sublease agreement" have the same meanings as in section 4505.04 of the Revised Code and "new manufactured home," "used manufactured home," and "used mobile home" have the same meanings as in section 5739.0210 of the Revised Code.

(B)(1) The clerk, except as provided in this section, shall refuse to accept for filing any application for a certificate of title and shall refuse to issue a certificate of title unless the dealer or the applicant, in cases in which the certificate shall be obtained by the buyer, submits with the application payment of the tax levied by or pursuant to Chapters 5739. and 5741. of the Revised Code based on the purchaser's county of residence. Upon payment of the tax in accordance with division (E) of this section, the clerk shall issue a receipt prescribed by the registrar and agreed upon by the tax commissioner showing payment of the tax or a receipt issued by the commissioner showing the payment of the tax. When submitting payment of the tax to the clerk, a dealer shall retain any discount to which the dealer is entitled under section 5739.12 of the Revised Code.

(2) For receiving and disbursing such taxes paid to the clerk by a resident of the clerk's county, the clerk may retain a poundage fee of one and one one-hundredth per cent, and the clerk shall pay the poundage fee into the certificate of title administration fund created by section 325.33 of the Revised Code. The clerk shall not retain a poundage fee from payments of taxes by persons who do not reside in the clerk's county.

A clerk, however, may retain from the taxes paid to the clerk an amount equal to the poundage fees associated with certificates of title issued by other clerks of courts of common pleas to applicants who reside in the first clerk's county. The registrar, in consultation with the tax commissioner and the clerks of the courts of common pleas, shall develop a report from the automated title processing system that informs each clerk of the amount of the poundage fees that the clerk is permitted to retain from those taxes because of certificates of title issued by the clerks of other counties to applicants who reside in the first clerk's county.

(3) In the case of casual sales of motor vehicles, as defined in section 4517.01 of the Revised Code, the price for the purpose of determining the tax shall be the purchase price on the assigned certificate of title executed by the seller and filed with the clerk by the buyer on a form to be prescribed by the registrar, which shall be prima-facie evidence of the amount for the determination of the tax.

(4) Each county clerk shall forward to the treasurer of state all sales and use tax collections resulting from sales of motor vehicles, off-highway motorcycles, and all-purpose vehicles during a calendar week on or before the Friday following the close of that week. If, on any Friday, the offices of the clerk of courts or the state are not open for business, the tax shall be forwarded to the treasurer

of state on or before the next day on which the offices are open. Every remittance of tax under division (B)(4) of this section shall be accompanied by a remittance report in such form as the tax commissioner prescribes. Upon receipt of a tax remittance and remittance report, the treasurer of state shall date stamp the report and forward it to the tax commissioner. If the tax due for any week is not remitted by a clerk of courts as required under division (B)(4) of this section, the commissioner may require the clerk to forfeit the poundage fees for the sales made during that week. The treasurer of state may require the clerks of courts to transmit tax collections and remittance reports electronically.

(C)(1) If the transferor indicates on the certificate of title that the odometer reflects mileage in excess of the designed mechanical limit of the odometer, the clerk shall enter the phrase "exceeds mechanical limits" following the mileage designation. If the transferor indicates on the certificate of title that the odometer reading is not the actual mileage, the clerk shall enter the phrase "nonactual: warning - odometer discrepancy" following the mileage designation. The clerk shall use reasonable care in transferring the information supplied by the transferor, but is not liable for any errors or omissions of the clerk or those of the clerk's deputies in the performance of the clerk's duties created by this chapter.

The registrar shall prescribe an affidavit in which the transferor shall swear to the true selling price and, except as provided in this division, the true odometer reading of the motor vehicle. The registrar may prescribe an affidavit in which the seller and buyer provide information pertaining to the odometer reading of the motor vehicle in addition to that required by this section, as such information may be required by the United States secretary of transportation by rule prescribed under authority of subchapter IV of the "Motor Vehicle Information and Cost Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981.

(2) Division (C)(1) of this section does not require the giving of information concerning the odometer and odometer reading of a motor vehicle when ownership of a motor vehicle is being transferred as a result of a bequest, under the laws of intestate succession, to a survivor pursuant to section 2106.18, 2131.12, or 4505.10 of the Revised Code, to a transfer-on-death beneficiary or beneficiaries pursuant to section 2131.13 of the Revised Code, in connection with the creation of a security interest or for a vehicle with a gross vehicle weight rating of more than sixteen thousand pounds.

(D) When the transfer to the applicant was made in some other state or in interstate commerce, the clerk, except as provided in this section, shall refuse to issue any certificate of title unless the tax imposed by or pursuant to Chapter 5741. of the Revised Code based on the purchaser's county of residence has been paid as evidenced by a receipt issued by the tax commissioner, or unless the applicant submits with the application payment of the tax. Upon payment of the tax in accordance with division (E) of this section, the clerk shall issue a receipt prescribed by the registrar and agreed upon by the tax commissioner, showing payment of the tax.

For receiving and disbursing such taxes paid to the clerk by a resident of the clerk's county, the clerk may retain a poundage fee of one and one one-hundredth per cent. The clerk shall not retain a poundage fee from payments of taxes by persons who do not reside in the clerk's county.

A clerk, however, may retain from the taxes paid to the clerk an amount equal to the poundage fees associated with certificates of title issued by other clerks of courts of common pleas to

applicants who reside in the first clerk's county. The registrar, in consultation with the tax commissioner and the clerks of the courts of common pleas, shall develop a report from the automated title processing system that informs each clerk of the amount of the poundage fees that the clerk is permitted to retain from those taxes because of certificates of title issued by the clerks of other counties to applicants who reside in the first clerk's county.

When the vendor is not regularly engaged in the business of selling motor vehicles, the vendor shall not be required to purchase a vendor's license or make reports concerning those sales.

(E) The clerk shall accept any payment of a tax in cash, or by cashier's check, certified check, draft, money order, or teller check issued by any insured financial institution payable to the clerk and submitted with an application for a certificate of title under division (B) or (D) of this section. The clerk also may accept payment of the tax by corporate, business, or personal check, credit card, electronic transfer or wire transfer, debit card, or any other accepted form of payment made payable to the clerk. The clerk may require bonds, guarantees, or letters of credit to ensure the collection of corporate, business, or personal checks. Any service fee charged by a third party to a clerk for the use of any form of payment may be paid by the clerk from the certificate of title administration fund created in section 325.33 of the Revised Code, or may be assessed by the clerk upon the applicant as an additional fee. Upon collection, the additional fees shall be paid by the clerk into that certificate of title administration fund.

The clerk shall make a good faith effort to collect any payment of taxes due but not made because the payment was returned or dishonored, but the clerk is not personally liable for the payment of uncollected taxes or uncollected fees. The clerk shall notify the tax commissioner of any such payment of taxes that is due but not made and shall furnish the information to the commissioner that the commissioner requires. The clerk shall deduct the amount of taxes due but not paid from the clerk's periodic remittance of tax payments, in accordance with procedures agreed upon by the tax commissioner. The commissioner may collect taxes due by assessment in the manner provided in section 5739.13 of the Revised Code.

Any person who presents payment that is returned or dishonored for any reason is liable to the clerk for payment of a penalty over and above the amount of the taxes due. The clerk shall determine the amount of the penalty, and the penalty shall be no greater than that amount necessary to compensate the clerk for banking charges, legal fees, or other expenses incurred by the clerk in collecting the returned or dishonored payment. The remedies and procedures provided in this section are in addition to any other available civil or criminal remedies. Subsequently collected penalties, poundage fees, and title fees, less any title fee due the state, from returned or dishonored payments collected by the clerk shall be paid into the certificate of title administration fund. Subsequently collected taxes, less poundage fees, shall be sent by the clerk to the treasurer of state at the next scheduled periodic remittance of tax payments, with information as the commissioner may require. The clerk may abate all or any part of any penalty assessed under this division.

(F) In the following cases, the clerk shall accept for filing an application and shall issue a certificate of title without requiring payment or evidence of payment of the tax:

(1) When the purchaser is this state or any of its political subdivisions, a church, or an organization whose purchases are exempted by section 5739.02 of the Revised Code;

(2) When the transaction in this state is not a retail sale as defined by section 5739.01 of the



Revised Code;

(3) When the purchase is outside this state or in interstate commerce and the purpose of the purchaser is not to use, store, or consume within the meaning of section 5741.01 of the Revised Code;

(4) When the purchaser is the federal government;

(5) When the motor vehicle was purchased outside this state for use outside this state;

(6) When the motor vehicle is purchased by a nonresident under the circumstances described in division (B)(1) of section 5739.029 of the Revised Code, and upon presentation of a copy of the affidavit provided by that section, and a copy of the exemption certificate provided by section 5739.03 of the Revised Code.

(G) An application, as prescribed by the registrar and agreed to by the tax commissioner, shall be filled out and sworn to by the buyer of a motor vehicle in a casual sale. The application shall contain the following notice in bold lettering: "WARNING TO TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You are required by law to state the true selling price. A false statement is in violation of section 2921.13 of the Revised Code and is punishable by six months' imprisonment or a fine of up to one thousand dollars, or both. All transfers are audited by the department of taxation. The seller and buyer must provide any information requested by the department of taxation. The buyer may be assessed any additional tax found to be due."

(H) For sales of manufactured homes or mobile homes occurring on or after January 1, 2000, the clerk shall accept for filing, pursuant to Chapter 5739. of the Revised Code, an application for a certificate of title for a manufactured home or mobile home without requiring payment of any tax pursuant to section 5739.02, 5741.021, 5741.022, or 5741.023 of the Revised Code, or a receipt issued by the tax commissioner showing payment of the tax. For sales of manufactured homes or mobile homes occurring on or after January 1, 2000, the applicant shall pay to the clerk an additional fee of five dollars for each certificate of title issued by the clerk for a manufactured or mobile home pursuant to division (H) of section 4505.11 of the Revised Code and for each certificate of title issued upon transfer of ownership of the home. The clerk shall credit the fee to the county certificate of title administration fund, and the fee shall be used to pay the expenses of archiving those certificates pursuant to division (A) of section 4505.08 and division (H)(3) of section 4505.11 of the Revised Code. The tax commissioner shall administer any tax on a manufactured or mobile home pursuant to Chapters 5739. and 5741. of the Revised Code.

(I) Every clerk shall have the capability to transact by electronic means all procedures and transactions relating to the issuance of motor vehicle certificates of title that are described in the Revised Code as being accomplished by electronic means.

**Sec. 4507.21.** (A) Each applicant for a driver's license shall file an application in the office of the registrar of motor vehicles or of a deputy registrar.

(B)(1) Each person under eighteen years of age applying for a driver's license issued in this state shall present satisfactory evidence of having successfully completed any one of the following:

(a) A driver education course approved by the state department of education prior to December 31, 2003.

(b) A driver training course approved by the director of public safety.

(c) A driver training course comparable to a driver education or driver training course

described in division (B)(1)(a) or (b) of this section and administered by a branch of the armed forces of the United States and completed by the applicant while residing outside this state for the purpose of being with or near any person serving in the armed forces of the United States.

(2) Each person under eighteen years of age applying for a driver's license also shall present, on a form prescribed by the registrar, an affidavit signed by an eligible adult attesting that the person has acquired at least fifty hours of actual driving experience, with at least ten of those hours being at night.

(C) Commencing one year after the effective date of the rules adopted pursuant to division (F) of section 4508.02 of the Revised Code that govern the abbreviated driver training course, each applicant for an initial driver's license who is eighteen years of age or older and who failed the road or maneuverability test required under division (A)(2) of section 4507.11 of the Revised Code shall present satisfactory evidence of having successfully completed the abbreviated driver training course for adults, approved by the director of public safety, prior to attempting the test a second or subsequent time.

(D) If the registrar or deputy registrar determines that the applicant is entitled to the driver's license, it shall be issued. If the application shows that the applicant's license has been previously canceled or suspended, the deputy registrar shall forward the application to the registrar, who shall determine whether the license shall be granted.

(E) An applicant shall file an application in duplicate, and the deputy registrar issuing the license shall immediately forward to the office of the registrar the original copy of the application, together with the duplicate copy of any certificate of completion if issued for purposes of division (B) of this section. The registrar shall prescribe rules as to the manner in which the deputy registrar files and maintains the applications and other records. The registrar shall file every application for a driver's or commercial driver's license and index them by name and number, and shall maintain a suitable record of all licenses issued, all convictions and bond forfeitures, all applications for licenses denied, and all licenses that have been suspended or canceled.

(F) For purposes of section 2313.06 of the Revised Code, the registrar shall maintain accurate and current lists of the residents of each county who are eighteen years of age or older, have been issued, on and after January 1, 1984, driver's or commercial driver's licenses that are valid and current, and would be electors if they were registered to vote, regardless of whether they actually are registered to vote. The lists shall contain the names, addresses, dates of birth, duration of residence in this state, citizenship status, and social security numbers, if the numbers are available, of the licensees, and may contain any other information that the registrar considers suitable.

(G) Each person under eighteen years of age applying for a motorcycle operator's endorsement or a restricted license enabling the applicant to operate a motorcycle shall present satisfactory evidence of having completed the courses of instruction in the motorcycle safety and education program described in section 4508.08 of the Revised Code or a comparable course of instruction administered by a branch of the armed forces of the United States and completed by the applicant while residing outside this state for the purpose of being with or near any person serving in the armed forces of the United States. If the registrar or deputy registrar then determines that the applicant is entitled to the endorsement or restricted license, it shall be issued.

(H) No person shall knowingly make a false statement in an affidavit presented in accordance

with division (B)(2) of this section.

(I) As used in this section, "eligible adult" means any of the following persons:

(1) A parent, guardian, or custodian of the applicant;

(2) A person over the age of twenty-one who acts in loco parentis of the applicant and who maintains proof of financial responsibility with respect to the operation of a motor vehicle owned by the applicant or with respect to the applicant's operation of any motor vehicle.

(J) Whoever violates division (H) of this section is guilty of a minor misdemeanor and shall be fined one hundred dollars.

**Sec. 4511.0915.**

**Sec. 4511.191.** (A)(1) As used in this section:

(a) "Physical control" has the same meaning as in section 4511.194 of the Revised Code.

(b) "Alcohol monitoring device" means any device that provides for continuous alcohol monitoring, any ignition interlock device, any immobilizing or disabling device other than an ignition interlock device that is constantly available to monitor the concentration of alcohol in a person's system, or any other device that provides for the automatic testing and periodic reporting of alcohol consumption by a person and that a court orders a person to use as a sanction imposed as a result of the person's conviction of or plea of guilty to an offense.

(c) "Community addiction services provider" has the same meaning as in section 5119.01 of the Revised Code.

(2) Any person who operates a vehicle, streetcar, or trackless trolley upon a highway or any public or private property used by the public for vehicular travel or parking within this state or who is in physical control of a vehicle, streetcar, or trackless trolley shall be deemed to have given consent to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine to determine the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine if arrested for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance.

(3) The chemical test or tests under division (A)(2) of this section shall be administered at the request of a law enforcement officer having reasonable grounds to believe the person was operating or in physical control of a vehicle, streetcar, or trackless trolley in violation of a division, section, or ordinance identified in division (A)(2) of this section. The law enforcement agency by which the officer is employed shall designate which of the tests shall be administered.

(4) Any person who is dead or unconscious, or who otherwise is in a condition rendering the person incapable of refusal, shall be deemed to have consented as provided in division (A)(2) of this section, and the test or tests may be administered, subject to sections 313.12 to 313.16 of the Revised Code.

(5)(a) If a law enforcement officer arrests a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance and if the person if convicted would be required to be sentenced under division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised Code, the law enforcement officer shall request the person to submit, and the person shall submit, to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine for the

purpose of determining the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine. A law enforcement officer who makes a request pursuant to this division that a person submit to a chemical test or tests is not required to advise the person of the consequences of submitting to, or refusing to submit to, the test or tests and is not required to give the person the form described in division (B) of section 4511.192 of the Revised Code, but the officer shall advise the person at the time of the arrest that if the person refuses to take a chemical test the officer may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. The officer shall also advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. Divisions (A)(3) and (4) of this section apply to the administration of a chemical test or tests pursuant to this division.

(b) If a person refuses to submit to a chemical test upon a request made pursuant to division (A)(5)(a) of this section, the law enforcement officer who made the request may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. A law enforcement officer who acts pursuant to this division to ensure that a person submits to a chemical test of the person's whole blood or blood serum or plasma is immune from criminal and civil liability based upon a claim for assault and battery or any other claim for the acts, unless the officer so acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

(B)(1) Upon receipt of the sworn report of a law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance that was completed and sent to the registrar of motor vehicles and a court pursuant to section 4511.192 of the Revised Code in regard to a person who refused to take the designated chemical test, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and that section and the period of the suspension, as determined under this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension shall be for whichever of the following periods applies:

(a) Except when division (B)(1)(b), (c), or (d) of this section applies and specifies a different class or length of suspension, the suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code.

(b) If the arrested person, within ten years of the date on which the person refused the request to consent to the chemical test, had refused one previous request to consent to a chemical test or had been convicted of or pleaded guilty to one violation of division (A) or (B) of section 4511.19 of the Revised Code or one other equivalent offense, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(c) If the arrested person, within ten years of the date on which the person refused the request to consent to the chemical test, had refused two previous requests to consent to a chemical test, had been convicted of or pleaded guilty to two violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, or had refused one previous request to consent to a

chemical test and also had been convicted of or pleaded guilty to one violation of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, which violation or offense arose from an incident other than the incident that led to the refusal, the suspension shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(d) If the arrested person, within ten years of the date on which the person refused the request to consent to the chemical test, had refused three or more previous requests to consent to a chemical test, had been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, or had refused a number of previous requests to consent to a chemical test and also had been convicted of or pleaded guilty to a number of violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses that cumulatively total three or more such refusals, convictions, and guilty pleas, the suspension shall be for five years.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (B)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (B)(1) of this section.

(C)(1) Upon receipt of the sworn report of the law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance that was completed and sent to the registrar and a court pursuant to section 4511.192 of the Revised Code in regard to a person whose test results indicate that the person's whole blood, blood serum or plasma, breath, or urine contained at least the concentration of alcohol specified in division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code or at least the concentration of a listed controlled substance or a listed metabolite of a controlled substance specified in division (A)(1)(j) of section 4511.19 of the Revised Code, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and section 4511.192 of the Revised Code and the period of the suspension, as determined under divisions (C)(1)(a) to (d) of this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension described in this division does not apply to, and shall not be imposed upon, a person arrested for a violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance who submits to a designated chemical test. The suspension shall be for whichever of the following periods applies:

(a) Except when division (C)(1)(b), (c), or (d) of this section applies and specifies a different

period, the suspension shall be a class E suspension imposed for the period of time specified in division (B)(5) of section 4510.02 of the Revised Code.

(b) The suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code if the person has been convicted of or pleaded guilty to, within ten years of the date the test was conducted, one violation of division (A) or (B) of section 4511.19 of the Revised Code or one other equivalent offense.

(c) If, within ten years of the date the test was conducted, the person has been convicted of or pleaded guilty to two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(d) If, within ten years of the date the test was conducted, the person has been convicted of or pleaded guilty to more than two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (C)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (C)(1) of this section.

(D)(1) A suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege under this section for the time described in division (B) or (C) of this section is effective immediately from the time at which the arresting officer serves the notice of suspension upon the arrested person. Any subsequent finding that the person is not guilty of the charge that resulted in the person being requested to take the chemical test or tests under division (A) of this section does not affect the suspension.

(2) If a person is arrested for operating a vehicle, streetcar, or trackless trolley in violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance, or for being in physical control of a vehicle, streetcar, or trackless trolley in violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under division (B) or (C) of this section or Chapter 4510. of the Revised Code, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the person's arrest or the issuance of the citation to the person, subject to any continuance granted by the court pursuant to section 4511.197 of the Revised Code regarding the issues specified in that division.

(E) When it finally has been determined under the procedures of this section and sections 4511.192 to 4511.197 of the Revised Code that a nonresident's privilege to operate a vehicle within this state has been suspended, the registrar shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

(F) At the end of a suspension period under this section, under section 4511.194, section 4511.196, or division (G) of section 4511.19 of the Revised Code, or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance and upon the request of the person whose driver's or commercial driver's license or permit was suspended and who is not otherwise subject to suspension, cancellation, or disqualification, the registrar shall return the driver's or commercial driver's license or permit to the person upon the occurrence of all of the conditions specified in divisions (F)(1) and (2) of this section:

(1) A showing that the person has proof of financial responsibility, a policy of liability insurance in effect that meets the minimum standards set forth in section 4509.51 of the Revised Code, or proof, to the satisfaction of the registrar, that the person is able to respond in damages in an amount at least equal to the minimum amounts specified in section 4509.51 of the Revised Code.

(2) Subject to the limitation contained in division (F)(3) of this section, payment by the person to the registrar or an eligible deputy registrar of a license reinstatement fee of four hundred seventy-five dollars, which fee shall be deposited in the state treasury and credited as follows:

(a) One hundred twelve dollars and fifty cents shall be credited to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code. Money credited to the fund under this section shall be used for purposes identified under section 5119.22 of the Revised Code.

(b) Seventy-five dollars shall be credited to the reparations fund created by section 2743.191 of the Revised Code.

(c) Thirty-seven dollars and fifty cents shall be credited to the indigent drivers alcohol treatment fund, which is hereby established in the state treasury. The department of mental health and addiction services shall distribute the moneys in that fund to the county indigent drivers alcohol treatment funds, the county juvenile indigent drivers alcohol treatment funds, and the municipal indigent drivers alcohol treatment funds that are required to be established by counties and municipal corporations pursuant to division (H) of this section to be used only as provided in division (H)(3) of this section. Moneys in the fund that are not distributed to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund under division (H) of this section because the director of mental health and addiction services does not have the information necessary to identify the county or municipal corporation where the offender or juvenile offender was arrested may be transferred by the director of budget and management to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code, upon certification of the amount by the director of mental health and addiction services.

(d) Seventy-five dollars shall be credited to the opportunities for Ohioans with disabilities agency established by section 3304.15 of the Revised Code, to the services for rehabilitation fund, which is hereby established. The fund shall be used to match available federal matching funds where appropriate, and for any other purpose or program of the agency to rehabilitate persons with

disabilities to help them become employed and independent.

(e) Seventy-five dollars shall be deposited into the state treasury and credited to the drug abuse resistance education programs fund, which is hereby established, to be used by the attorney general for the purposes specified in division (F)(4) of this section.

(f) Thirty dollars shall be credited to the public safety - highway purposes fund created by section 4501.06 of the Revised Code.

(g) Twenty dollars shall be credited to the trauma and emergency medical services fund created by section 4513.263 of the Revised Code.

(h) Fifty dollars shall be credited to the indigent drivers interlock and alcohol monitoring fund, which is hereby established in the state treasury. Moneys in the fund shall be distributed by the department of public safety to the county indigent drivers interlock and alcohol monitoring funds, the county juvenile indigent drivers interlock and alcohol monitoring funds, and the municipal indigent drivers interlock and alcohol monitoring funds that are required to be established by counties and municipal corporations pursuant to this section, and shall be used only to pay the cost of an immobilizing or disabling device, including a certified ignition interlock device, or an alcohol monitoring device used by an offender or juvenile offender who is ordered to use the device by a county, juvenile, or municipal court judge and who is determined by the county, juvenile, or municipal court judge not to have the means to pay for the person's use of the device.

(3) If a person's driver's or commercial driver's license or permit is suspended under this section, under section 4511.196 or division (G) of section 4511.19 of the Revised Code, under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance or under any combination of the suspensions described in division (F)(3) of this section, and if the suspensions arise from a single incident or a single set of facts and circumstances, the person is liable for payment of, and shall be required to pay to the registrar or an eligible deputy registrar, only one reinstatement fee of four hundred seventy-five dollars. The reinstatement fee shall be distributed by the bureau in accordance with division (F)(2) of this section.

(4) The attorney general shall use amounts in the drug abuse resistance education programs fund to award grants to law enforcement agencies to establish and implement drug abuse resistance education programs in public schools. Grants awarded to a law enforcement agency under this section shall be used by the agency to pay for not more than fifty per cent of the amount of the salaries of law enforcement officers who conduct drug abuse resistance education programs in public schools. The attorney general shall not use more than six per cent of the amounts the attorney general's office receives under division (F)(2)(e) of this section to pay the costs it incurs in administering the grant program established by division (F)(2)(e) of this section and in providing training and materials relating to drug abuse resistance education programs.

The attorney general shall report to the governor and the general assembly each fiscal year on the progress made in establishing and implementing drug abuse resistance education programs. These reports shall include an evaluation of the effectiveness of these programs.

(5) In addition to the reinstatement fee under this section, if the person pays the reinstatement fee to a deputy registrar, the deputy registrar shall collect a service fee of ten dollars to compensate the deputy registrar for services performed under this section. The deputy registrar shall retain eight dollars of the service fee and shall transmit the reinstatement fee, plus two dollars of the service fee,



to the registrar in the manner the registrar shall determine.

(G) Suspension of a commercial driver's license under division (B) or (C) of this section shall be concurrent with any period of disqualification under section 3123.611 or 4506.16 of the Revised Code or any period of suspension under section 3123.58 of the Revised Code. No person who is disqualified for life from holding a commercial driver's license under section 4506.16 of the Revised Code shall be issued a driver's license under Chapter 4507. of the Revised Code during the period for which the commercial driver's license was suspended under division (B) or (C) of this section. No person whose commercial driver's license is suspended under division (B) or (C) of this section shall be issued a driver's license under Chapter 4507. of the Revised Code during the period of the suspension.

(H)(1) Each county shall establish an indigent drivers alcohol treatment fund and a juvenile indigent drivers alcohol treatment fund. Each municipal corporation in which there is a municipal court shall establish an indigent drivers alcohol treatment fund. All revenue that the general assembly appropriates to the indigent drivers alcohol treatment fund for transfer to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, all portions of fees that are paid under division (F) of this section and that are credited under that division to the indigent drivers alcohol treatment fund in the state treasury for a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, all portions of additional costs imposed under section 2949.094 of the Revised Code that are specified for deposit into a county, county juvenile, or municipal indigent drivers alcohol treatment fund by that section, and all portions of fines that are specified for deposit into a county or municipal indigent drivers alcohol treatment fund by section 4511.193 of the Revised Code shall be deposited into that county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund. The portions of the fees paid under division (F) of this section that are to be so deposited shall be determined in accordance with division (H)(2) of this section. Additionally, all portions of fines that are paid for a violation of section 4511.19 of the Revised Code or of any prohibition contained in Chapter 4510. of the Revised Code, and that are required under section 4511.19 or any provision of Chapter 4510. of the Revised Code to be deposited into a county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund shall be deposited into the appropriate fund in accordance with the applicable division of the section or provision.

(2) That portion of the license reinstatement fee that is paid under division (F) of this section and that is credited under that division to the indigent drivers alcohol treatment fund shall be deposited into a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund as follows:

(a) Regarding a suspension imposed under this section, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person who was charged in a county court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person who was charged in a juvenile court with the violation that

resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the county juvenile indigent drivers alcohol treatment fund established in the county served by the court;

(iii) If the fee is paid by a person who was charged in a municipal court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(b) Regarding a suspension imposed under section 4511.19 of the Revised Code or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person whose license or permit was suspended by a county court, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person whose license or permit was suspended by a municipal court, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(3)(a) As used in division (H)(3) of this section, "indigent person" means a person who is convicted of a violation of division (A) or (B) of section 4511.19 of the Revised Code or a substantially similar municipal ordinance or found to be a juvenile traffic offender by reason of a violation of division (A) or (B) of section 4511.19 of the Revised Code or a substantially similar municipal ordinance, who is ordered by the court to attend an alcohol and drug addiction treatment program, and who is determined by the court under division (H)(5) of this section to be unable to pay the cost of the assessment or the cost of attendance at the treatment program.

(b) A county, juvenile, or municipal court judge, by order, may make expenditures from a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund with respect to an indigent person for any of the following:

(i) To pay the cost of an assessment that is conducted by an appropriately licensed clinician at either a driver intervention program that is certified under section 5119.38 of the Revised Code or at a community addiction services provider whose alcohol and drug addiction services are certified under section 5119.36 of the Revised Code;

(ii) To pay the cost of alcohol addiction services, drug addiction services, or integrated alcohol and drug addiction services at a community addiction services provider whose alcohol and drug addiction services are certified under section 5119.36 of the Revised Code;

(iii) To pay the cost of transportation to attend an assessment as provided under division (H)(3)(b)(i) of this section or addiction services as provided under division (H)(3)(b)(ii) of this section.

The alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health service district in which the court is located shall administer the indigent drivers alcohol treatment program of the court. When a court orders an offender or juvenile traffic offender to obtain an assessment or attend an alcohol and drug addiction treatment program, the board shall determine which program is suitable to meet the needs of the offender or juvenile traffic offender, and when a suitable program is located and space is available at

the program, the offender or juvenile traffic offender shall attend the program designated by the board. A reasonable amount not to exceed five per cent of the amounts credited to and deposited into the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund serving every court whose program is administered by that board shall be paid to the board to cover the costs it incurs in administering those indigent drivers alcohol treatment programs.

(c) Upon exhaustion of moneys in the indigent drivers interlock and alcohol monitoring fund for the use of an alcohol monitoring device, a county, juvenile, or municipal court judge may use moneys in the county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund in either of the following manners:

(i) If the source of the moneys was an appropriation of the general assembly, a portion of a fee that was paid under division (F) of this section, a portion of a fine that was specified for deposit into the fund by section 4511.193 of the Revised Code, or a portion of a fine that was paid for a violation of section 4511.19 of the Revised Code or of a provision contained in Chapter 4510. of the Revised Code that was required to be deposited into the fund, to pay for the continued use of an alcohol monitoring device by an offender or juvenile traffic offender, in conjunction with a treatment program approved by the department of mental health and addiction services, when such use is determined clinically necessary by the treatment program and when the court determines that the offender or juvenile traffic offender is unable to pay all or part of the daily monitoring or cost of the device;

(ii) If the source of the moneys was a portion of an additional court cost imposed under section 2949.094 of the Revised Code, to pay for the continued use of an alcohol monitoring device by an offender or juvenile traffic offender when the court determines that the offender or juvenile traffic offender is unable to pay all or part of the daily monitoring or cost of the device. The moneys may be used for a device as described in this division if the use of the device is in conjunction with a treatment program approved by the department of mental health and addiction services, when the use of the device is determined clinically necessary by the treatment program, but the use of a device is not required to be in conjunction with a treatment program approved by the department in order for the moneys to be used for the device as described in this division.

(4) If a county, juvenile, or municipal court determines, in consultation with the alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health district in which the court is located, that the funds in the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund under the control of the court are more than sufficient to satisfy the purpose for which the fund was established, as specified in divisions (H)(1) to (3) of this section, the court may declare a surplus in the fund. If the court declares a surplus in the fund, the court may take any of the following actions with regard to the amount of the surplus in the fund:

(a) Expend any of the surplus amount for alcohol and drug abuse assessment and treatment, and for the cost of transportation related to assessment and treatment, of persons who are charged in

the court with committing a criminal offense or with being a delinquent child or juvenile traffic offender and in relation to whom both of the following apply:

(i) The court determines that substance abuse was a contributing factor leading to the criminal or delinquent activity or the juvenile traffic offense with which the person is charged.

(ii) The court determines that the person is unable to pay the cost of the alcohol and drug abuse assessment and treatment for which the surplus money will be used.

(b) Expend any of the surplus amount to pay all or part of the cost of purchasing alcohol monitoring devices to be used in conjunction with division (H)(3)(c) of this section, upon exhaustion of moneys in the indigent drivers interlock and alcohol monitoring fund for the use of an alcohol monitoring device.

(c) Transfer to another court in the same county any of the surplus amount to be utilized in a manner consistent with division (H)(3) of this section. If surplus funds are transferred to another court, the court that transfers the funds shall notify the alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services that serves the alcohol, drug addiction, and mental health service district in which that court is located.

(d) Transfer to the alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services that serves the alcohol, drug addiction, and mental health service district in which the court is located any of the surplus amount to be utilized in a manner consistent with division (H)(3) of this section or for board contracted recovery support services.

(5) In order to determine if an offender does not have the means to pay for the offender's attendance at an alcohol and drug addiction treatment program for purposes of division (H)(3) of this section or if an alleged offender or delinquent child is unable to pay the costs specified in division (H)(4) of this section, the court shall use the indigent client eligibility guidelines and the standards of indigency established by the state public defender to make the determination.

(6) The court shall identify and refer any community addiction services provider that intends to provide alcohol and drug addiction services and has not had its alcohol and drug addiction services certified under section 5119.36 of the Revised Code and that is interested in receiving amounts from the surplus in the fund declared under division (H)(4) of this section to the department of mental health and addiction services in order for the community addiction services provider to have its alcohol and drug addiction services certified by the department. The department shall keep a record of applicant referrals received pursuant to this division and shall submit a report on the referrals each year to the general assembly. If a community addiction services provider interested in having its alcohol and drug addiction services certified makes an application pursuant to section 5119.36 of the Revised Code, the community addiction services provider is eligible to receive surplus funds as long as the application is pending with the department. The department of mental health and addiction services must offer technical assistance to the applicant. If the interested community addiction services provider withdraws the certification application, the department must notify the court, and the court shall not provide the interested community addiction services provider with any further surplus funds.

(7)(a) Each alcohol and drug addiction services board and board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code shall submit to the department of mental health and addiction services an annual report for each

indigent drivers alcohol treatment fund in that board's area.

(b) The report, which shall be submitted not later than sixty days after the end of the state fiscal year, shall provide the total payment that was made from the fund, including the number of indigent consumers that received treatment services and the number of indigent consumers that received an alcohol monitoring device. The report shall identify the treatment program and expenditure for an alcohol monitoring device for which that payment was made. The report shall include the fiscal year balance of each indigent drivers alcohol treatment fund located in that board's area. In the event that a surplus is declared in the fund pursuant to division (H)(4) of this section, the report also shall provide the total payment that was made from the surplus moneys and identify the authorized purpose for which that payment was made.

(c) If a board is unable to obtain adequate information to develop the report to submit to the department for a particular indigent drivers alcohol treatment fund, the board shall submit a report detailing the effort made in obtaining the information.

(I)(1) Each county shall establish an indigent drivers interlock and alcohol monitoring fund and a juvenile indigent drivers interlock and alcohol treatment fund. Each municipal corporation in which there is a municipal court shall establish an indigent drivers interlock and alcohol monitoring fund. All revenue that the general assembly appropriates to the indigent drivers interlock and alcohol monitoring fund for transfer to a county indigent drivers interlock and alcohol monitoring fund, a county juvenile indigent drivers interlock and alcohol monitoring fund, or a municipal indigent drivers interlock and alcohol monitoring fund, all portions of license reinstatement fees that are paid under division (F)(2) of this section and that are credited under that division to the indigent drivers interlock and alcohol monitoring fund in the state treasury, and all portions of fines that are paid under division (G) of section 4511.19 of the Revised Code and that are credited by division (G)(5)(e) of that section to the indigent drivers interlock and alcohol monitoring fund in the state treasury shall be deposited in the appropriate fund in accordance with division (I)(2) of this section.

(2) That portion of the license reinstatement fee that is paid under division (F) of this section and that portion of the fine paid under division (G) of section 4511.19 of the Revised Code and that is credited under either division to the indigent drivers interlock and alcohol monitoring fund shall be deposited into a county indigent drivers interlock and alcohol monitoring fund, a county juvenile indigent drivers interlock and alcohol monitoring fund, or a municipal indigent drivers interlock and alcohol monitoring fund as follows:

(a) If the fee or fine is paid by a person who was charged in a county court with the violation that resulted in the suspension or fine, the portion shall be deposited into the county indigent drivers interlock and alcohol monitoring fund under the control of that court.

(b) If the fee or fine is paid by a person who was charged in a juvenile court with the violation that resulted in the suspension or fine, the portion shall be deposited into the county juvenile indigent drivers interlock and alcohol monitoring fund established in the county served by the court.

(c) If the fee or fine is paid by a person who was charged in a municipal court with the violation that resulted in the suspension, the portion shall be deposited into the municipal indigent drivers interlock and alcohol monitoring fund under the control of that court.

(3) If a county, juvenile, or municipal court determines that the funds in the county indigent

drivers interlock and alcohol monitoring fund, the county juvenile indigent drivers interlock and alcohol monitoring fund, or the municipal indigent drivers interlock and alcohol monitoring fund under the control of that court are more than sufficient to satisfy the purpose for which the fund was established as specified in division (F)(2)(h) of this section, the court may declare a surplus in the fund. The court then may order the transfer of a specified amount into the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund under the control of that court to be utilized in accordance with division (H) of this section.

**Sec. 4513.611.** (A) As used in this section:

(1) "Minor violation" means any of the following:

(a) Failure to deliver a vehicle to the designated location within two hours after removal, unless the towing service was unable to deliver the motor vehicle within two hours due to an uncontrollable force, natural disaster, or other event that was not within the power of the towing service, as required under division (A)(2) of section 4513.60 or division (D)(2) of section 4513.601 of the Revised Code;

(b) Failure to provide a receipt as required under division (B) of section 4513.60 or division (C) of section 4513.601 of the Revised Code;

(c) Failure to take a towed vehicle to a location that meets the requirements of division (A)(2) of section 4513.601 of the Revised Code as required under that division;

(d) Failure to comply with any photograph-related requirement established under division (D)(1) or (G)(2) of section 4513.601 of the Revised Code. If a court determines that a towing service or storage facility committed more than one violation of divisions (D)(1) and (G)(2) of section 4513.601 of the Revised Code with regard to the same transaction, the court shall find the towing service or storage facility liable for only one minor violation under this section.

(e) Failure to send notice to the owner and any lienholder as required under division (F)(1)(a) of section 4513.601 of the Revised Code;

(f) Failure to provide an estimate as required under section 4513.68 of the Revised Code, containing the information required under that section;

(g) Charging a fee that does not comply with division (C) of section 4513.68 of the Revised Code if the towing service fee is required to be reduced under that division;

(h) Failure to post a notice pertaining to fee limitations as required under division (D) of section 4513.68 of the Revised Code.

(2) "Major violation" means any of the following:

(a) Failure to give the owner of a vehicle, who arrives after the owner's vehicle has been prepared for removal but prior to its actual removal, notification that the owner may pay a fee of not more than one-half of the fee for the removal of the vehicle for the immediate release of the vehicle as required under division (B) of section 4513.60 or division (C) of section 4513.601 of the Revised Code;

(b) Failure to release a vehicle upon payment of not more than one-half of the fee for the removal of the vehicle as permitted under division (B) of section 4513.60 or division (C) of section 4513.601 of the Revised Code;

(c) Refusal to allow a vehicle owner to reclaim the owner's vehicle upon payment of the

applicable fees established by the public utilities commission and presentation of proof of ownership as permitted under division (D)(1) of section 4513.60 or division (G)(1) of section 4513.601 of the Revised Code;

(d) Refusal to allow a vehicle owner to retrieve personal items from the owner's vehicle under circumstances in which the owner is permitted to retrieve personal items under division (D)(2) of section 4513.60 or division (G)(4) of section 4513.601 of the Revised Code;

(e) Failure to provide notice to the appropriate law enforcement agency within two hours of removing a vehicle as required under division (E)(1) of section 4513.601 of the Revised Code;

(f) Failure to send notice that a vehicle has been towed to the vehicle owner and any known lienholder within thirty days of removal of the vehicle from a private tow-away zone under section 4513.601 of the Revised Code. If a court determines that a towing service or storage facility committed a violation specified in division (A)(2)(f) of this section and a violation of division (A)(1)(e) of this section with regard to the same transaction, the court shall find the towing service or storage facility liable for only the major violation;

(g) Failure to visibly display the certificate of public convenience and necessity number as required under division (B)(1) of section 4513.67 of the Revised Code.

(B)(1) A vehicle owner may bring a civil action in a court of competent jurisdiction against a towing service or storage facility that commits a major or minor violation.

(2) If a court determines that the towing service or storage facility committed a minor violation, the court shall award the vehicle owner the following:

(a) If the towing service or storage facility has not committed a prior minor violation within one year of the minor violation for which the court has determined the towing service or storage facility is liable, one hundred fifty dollars.

(b) If the towing service or storage facility has committed one prior minor violation within one year of the minor violation for which the court has determined the towing service or storage facility is liable, three hundred fifty dollars.

(c) If the towing service or storage facility has committed two prior minor violations within one year of the minor violation for which the court has determined the towing service or storage facility is liable, the violation constitutes a major violation and division (B)(3) of this section applies.

(d) If the towing service or storage facility has committed three prior minor violations within one year of the minor violation for which the court has determined the towing service or storage facility is liable, one thousand five hundred dollars.

(e) If the towing service or storage facility has committed four prior minor violations within one year of the minor violation for which the court has determined the towing service or storage facility is liable, two thousand dollars.

(f) If the towing service or storage facility has committed five prior minor violations within one year of the minor violation for which the court has determined the towing service or storage facility is liable, the violation constitutes a major violation and division (B)(3) of this section applies.

(g) If the towing service or storage facility has committed six or seven prior minor violations within one year of the minor violation for which the court has determined the towing service or storage facility is liable, two thousand five hundred dollars.

(h) If the towing service or storage facility has committed eight prior minor violations within

one year of the minor violation for which the court has determined the towing service or storage facility is liable, the violation constitutes a major violation and division (B)(3) of this section applies.

(3) If a court determines that the towing service or storage facility committed a major violation, the court shall award the vehicle owner the following:

(a) If the towing service or storage facility has not committed any prior major violations within one year of the major violation for which the court has determined the towing service or storage facility is liable, one thousand dollars;

(b) If the towing service or storage facility has committed one prior major violation within one year of the major violation for which the court has determined the towing service or storage facility is liable, two thousand five hundred dollars;

(c) If the towing service or storage facility has committed two prior major violations within one year of the major violation for which the court has determined the towing service or storage facility is liable, three thousand five hundred dollars. In addition, the court shall order the public utilities commission to revoke the towing service's or storage facility's certificate of public convenience and necessity for six months. The commission shall comply with the order.

Upon expiration of the six-month revocation under division (B)(3)(c) of this section, a court shall not consider any violation committed by the towing service or storage facility prior to the revocation for purposes of a civil action initiated after the expiration of the six-month revocation.

(4) If a vehicle owner brings a civil action against a towing service or storage facility that alleges multiple minor or major violations, the court shall award, with regard to each violation for which the towing service or storage facility is determined to be liable, a civil penalty as required under division (B)(2) or (3) of this section. The court shall consider each violation as a separate violation for purposes of determining how many violations the towing service or storage facility has committed within one year.

(5) In determining if a towing service or storage facility has committed prior minor or major violations within the applicable one-year period, a court shall consider only violations that have been determined by a court of competent jurisdiction to have been committed by the towing service or storage facility.

(C) In addition to an award made under division (B) of this section, if a court determines that a towing service or storage facility committed a violation that caused actual damages, the court shall award the vehicle owner three times the actual damages and reasonable attorney's fees.

(D) A court that issues a judgment under this section against a towing service or storage facility shall send a copy of that judgment to the public utilities commission. The commission shall provide a copy of the judgment upon request.

**Sec. 4513.67.** (A) As used in this section, "towing service" means any for-hire motor carrier that is engaged on an intrastate basis anywhere in this state in the business of towing a motor vehicle over any public highway in this state.

(B) No towing service shall permit the operation of a towing vehicle on behalf of the towing service, unless both of the following apply:

(1) The towing service holds a valid certificate of public convenience and necessity as required by Chapter 4921. of the Revised Code; and

(2) The certificate number and business telephone number is visibly displayed on both the



left and right sides of the towing vehicle.

(C)(1) No towing service shall do either of the following:

(a) Fail to make its current certificate of public convenience and necessity available for public inspection during normal business hours;

(b) Fail to include its certificate number on all written estimates, contracts, invoices, and, subject to division (C)(2) of this section, advertising.

(2) The public utilities commission, by rule, may exempt from the requirements of division (C)(1) of this section any type of advertising where the size or nature of the advertisement makes it unreasonable to add a certificate number.

(D)(1) Except as provided in division (D)(2) of this section, whoever violates division (B)(1) of this section is guilty of a minor misdemeanor. A towing service that is issued a citation for a violation of division (B)(1) of this section is not permitted to enter a written plea of guilty and waive the right to contest the citation in a trial but instead must designate an agent to appear in person in the proper court to answer the charge. If the towing service is convicted of or pleads guilty to the offense, the court shall notify the towing service that a subsequent offense will result in the seizure and impoundment of any tow truck that is used to tow vehicles on behalf of the towing service until the towing service obtains a certificate of public convenience and necessity.

(2) If a towing service previously has been convicted of or pleaded guilty to a violation of division (B)(1) of this section, a violation of division (B)(1) of this section is a misdemeanor and, notwithstanding sections 2929.24 to 2929.28 of the Revised Code, the court shall impose upon the towing service a fine of five hundred dollars. The court shall require the towing service to disclose the license plate number of every vehicle used to tow vehicles on behalf of the towing service and the court shall order an appropriate law enforcement agency to seize and impound all such vehicles. Upon presentation of a certificate of public convenience and necessity for the towing service, the court shall terminate the order and the law enforcement agency in possession of the vehicles shall release the vehicles.

(3) The offense established under division (B)(1) of this section is a strict liability offense and strict liability is a culpable mental state for purposes of section 2901.20 of the Revised Code. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

**Sec. 4519.10.** (A) The purchaser of an off-highway motorcycle or all-purpose vehicle, upon application and proof of purchase, may obtain a temporary license placard for it. The application for such a placard shall be signed by the purchaser of the off-highway motorcycle or all-purpose vehicle. The temporary license placard shall be issued only for the applicant's use of the off-highway motorcycle or all-purpose vehicle to enable the applicant to operate it legally while proper title and a registration sticker or license plate and validation sticker are being obtained and shall be displayed on no other off-highway motorcycle or all-purpose vehicle. A temporary license placard issued under this section shall be in a form prescribed by the registrar of motor vehicles, shall differ in some distinctive manner from a placard issued under section 4503.182 of the Revised Code, shall be valid for a period of forty-five days from the date of issuance, and shall not be transferable or renewable. The placard either shall consist of or be coated with such material as will enable it to remain legible and relatively intact despite the environmental conditions to which the placard is likely to be exposed

during the forty-five-day period for which it is valid. The purchaser of an off-highway motorcycle or all-purpose vehicle shall attach the temporary license placard to it, in a manner prescribed by rules the registrar shall adopt, so that the placard numerals or letters are clearly visible.

The fee for a temporary license placard issued under this section shall be two dollars. If the placard is issued by a deputy registrar, the deputy registrar shall charge an additional fee equal to the amount established under section 4503.038 of the Revised Code, which the deputy registrar shall retain. The deputy registrar shall transmit each two-dollar fee received by the deputy registrar under this section to the registrar, who shall pay the two dollars to the treasurer of state for deposit into the public safety - highway purposes fund established by section 4501.06 of the Revised Code.

(B) The registrar may issue temporary license placards to a dealer to be issued to purchasers for use on vehicles sold by the dealer, in accordance with rules prescribed by the registrar. The dealer shall notify the registrar within forty-eight hours of proof of issuance on a form prescribed by the registrar.

The fee for each such placard issued by the registrar to a dealer shall be two dollars plus a fee equal to the amount established under section 4503.038 of the Revised Code.

**Sec. 4582.56.**

**Sec. 4707.02.** (A) No person shall act as an auction firm, auctioneer, apprentice auctioneer, or special auctioneer within this state without a license issued by the department of agriculture. No auction shall be conducted in this state except by an auctioneer licensed by the department.

The department shall not issue or renew a license if the applicant or licensee has been convicted of a felony or crime involving fraud or theft in this or another state at any time during the ten years immediately preceding application or renewal.

(B) Division (A) of this section does not apply to any of the following:

(1) Sales at auction that either are required by law to be at auction, other than sales pursuant to a judicial order or decree, or are conducted by or under the direction of a public authority;

(2) The owner of any real or personal property desiring to sell the property at auction, provided that the property was not acquired for the purpose of resale;

(3) An auction mediation company;

(4) An auction that is conducted in a course of study for auctioneers that is approved by the state auctioneers commission created under section 4707.03 of the Revised Code for purposes of student training and is supervised by a licensed auctioneer;

(5)(a) An auction that is sponsored by a nonprofit or charitable organization that is registered in this state under Chapter 1702. or Chapter 1716. of the Revised Code, respectively, if the auction only involves the property of the members of the organization and the auction is part of a fair that is organized by an agricultural society under Chapter 1711. of the Revised Code or by the Ohio expositions commission under Chapter 991. of the Revised Code at which an auctioneer who is licensed under this chapter physically conducts the auction;

(b) Sales at an auction sponsored by a charitable, religious, or civic organization that is tax exempt under subsection 501(c)(3) of the Internal Revenue Code, or by a public school, chartered nonpublic school, or community school, if no person in the business of organizing, arranging, or conducting an auction for compensation and no consignor of consigned items sold at the auction, except such organization or school, receives compensation from the proceeds of the auction. As used

in division (B)(5)(b) of this section, "compensation" means money, a thing of value other than participation in a charitable event, or a financial benefit.

(c) Sales at an auction sponsored by an organization that is tax exempt under subsection 501(c)(6) of the Internal Revenue Code and that is a part of a national, regional, or state convention or conference that advances or promotes the auction profession in this state when the property to be sold is donated to or is the property of the organization and the proceeds remain within the organization or are donated to a charitable organization that is tax exempt under subsection 501(c)(3) of the Internal Revenue Code.

(6) A person licensed as a livestock dealer under Chapter 943. of the Revised Code who exclusively sells livestock and uses an auctioneer who is licensed under this chapter to conduct the auction;

(7) A person licensed as a motor vehicle auction owner under Chapter 4517. of the Revised Code who exclusively sells motor vehicles to a person licensed under Chapter 4517. of the Revised Code and who uses an auctioneer who is licensed under this chapter to conduct the auction;

(8) Sales of real or personal property conducted by means of the internet, provided that they are not conducted in conjunction with a live auction;

(9) A bid calling contest that is approved by the commission and that is conducted for the purposes of the advancement or promotion of the auction profession in this state;

(10) An auction at which the champion of a national or international bid calling contest appears, provided that both of the following apply:

(a) The champion is not paid a commission.

(b) The auction is conducted under the direct supervision of an auctioneer licensed under this chapter in order to ensure that the champion complies with this chapter and rules adopted under it.

(C)(1) No person shall advertise or hold oneself out as an auction firm, auctioneer, apprentice auctioneer, or special auctioneer without a license issued by the department of agriculture.

(2) Division (C)(1) of this section does not apply to an individual who is the subject of an advertisement regarding an auction conducted under division (B)(5)(b) of this section.

**Sec. 4715.18.** (A) No person shall practice or offer to practice dentistry or dental surgery under the name of any company, association, corporation, or other entity other than one of the following:

(1) A corporation-for-profit formed under Chapter 1701. of the Revised Code;

(2) A professional association established under Chapter 1785. of the Revised Code;

(3) A limited liability company formed under Chapter 1705. of the Revised Code;

(4) A federally qualified health center, federally qualified health center look-alike, free clinic, nonprofit shelter or health care facility, or nonprofit clinic that provides health care services or dental services to indigent and uninsured persons.

(B) Any person practicing or offering to practice dentistry or dental surgery shall do so under the person's name, the name of a professional association, professional partnership, corporation-for-profit, or limited liability company that includes the person's name, or the name of an organization specified in division (A)(4) of this section.

(C) As used in this section:

(1) "Federally qualified health center" and "federally qualified health center look-alike" have

the same meanings as in section 3701.047 of the Revised Code.

(2) "Free clinic" and "nonprofit shelter or health care facility" have the same meanings as in section 3701.071 of the Revised Code.

(3) "Nonprofit clinic" has the same meaning as in section 3715.87 of the Revised Code.

(4) "Indigent and uninsured person" has the same meaning as in section 2305.234 of the Revised Code.

**Sec. 4723.06.** (A) The board of nursing shall:

(1) Administer and enforce the provisions of this chapter, including the taking of disciplinary action for violations of section 4723.28 of the Revised Code, any other provisions of this chapter, or rules adopted under this chapter;

(2) Develop criteria that an applicant must meet to be eligible to sit for the examination for licensure to practice as a registered nurse or as a licensed practical nurse;

(3) Issue and renew nursing licenses, dialysis technician certificates, and community health worker certificates, as provided in this chapter;

(4) Define the minimum educational standards for the schools and programs of registered nursing and practical nursing in this state;

(5) Survey, inspect, and grant full approval to prelicensure nursing education programs in this state that meet the standards established by rules adopted under section 4723.07 of the Revised Code. Prelicensure nursing education programs include, but are not limited to, diploma, associate degree, baccalaureate degree, master's degree, and doctor of nursing programs leading to initial licensure to practice nursing as a registered nurse and practical nurse programs leading to initial licensure to practice nursing as a licensed practical nurse.

(6) Grant conditional approval, by a vote of a quorum of the board, to a new prelicensure nursing education program or a program that is being reestablished after having ceased to operate, if the program meets and maintains the minimum standards of the board established by rules adopted under section 4723.07 of the Revised Code. If the board does not grant conditional approval, it shall hold an adjudication under Chapter 119. of the Revised Code to consider conditional approval of the program. If the board grants conditional approval, at the first meeting following completion of the survey process required by division (A)(5) of this section, the board shall determine whether to grant full approval to the program. If the board does not grant full approval or if it appears that the program has failed to meet and maintain standards established by rules adopted under section 4723.07 of the Revised Code, the board shall hold an adjudication under Chapter 119. of the Revised Code to consider the program. Based on results of the adjudication, the board may continue or withdraw conditional approval, or grant full approval.

(7) Place on provisional approval, for a period of time specified by the board, a prelicensure nursing education program that has ceased to meet and maintain the minimum standards of the board established by rules adopted under section 4723.07 of the Revised Code. Prior to or at the end of the period, the board shall reconsider whether the program meets the standards and shall grant full approval if it does. If it does not, the board may withdraw approval, pursuant to an adjudication under Chapter 119. of the Revised Code.

(8) Approve continuing education programs and courses under standards established in rules adopted under sections 4723.07, 4723.69, 4723.79, and 4723.88 of the Revised Code;

(9) Establish a program for monitoring chemical dependency in accordance with section 4723.35 of the Revised Code;

(10) Establish the practice intervention and improvement program in accordance with section 4723.282 of the Revised Code;

(11) Grant approval to the course of study in advanced pharmacology and related topics described in section 4723.482 of the Revised Code;

(12) Make an annual edition of the exclusionary formulary established in rules adopted under section 4723.50 of the Revised Code available to the public by electronic means and, as soon as possible after any revision of the formulary becomes effective, make the revision available to the public by electronic means;

(13) Approve under section 4723.46 of the Revised Code national certifying organizations for examination and licensure of advanced practice registered nurses, which may include separate organizations for each nursing specialty;

(14) Provide guidance and make recommendations to the general assembly, the governor, state agencies, and the federal government with respect to the regulation of the practice of nursing and the enforcement of this chapter;

(15) Make an annual report to the governor, which shall be open for public inspection;

(16) Maintain and have open for public inspection the following records:

(a) A record of all its meetings and proceedings;

(b) A record of all applicants for, and holders of, licenses and certificates issued by the board under this chapter or in accordance with rules adopted under this chapter. The record shall be maintained in a format determined by the board.

(c) A list of education and training programs approved by the board.

(17) Deny conditional approval to a new prelicensure nursing education program or a program that is being reestablished after having ceased to operate if the program or a person acting on behalf of the program submits or causes to be submitted to the board false, misleading, or deceptive statements, information, or documentation in the process of applying for approval of the program. If the board proposes to deny approval of the program, it shall do so pursuant to an adjudication conducted under Chapter 119. of the Revised Code.

(B) The board may fulfill the requirement of division (A)(8) of this section by authorizing persons who meet the standards established in rules adopted under section 4723.07 of the Revised Code to approve continuing education programs and courses. Persons so authorized shall approve continuing education programs and courses in accordance with standards established in rules adopted under section 4723.07 of the Revised Code.

Persons seeking authorization to approve continuing education programs and courses shall apply to the board and pay the appropriate fee established under section 4723.08 of the Revised Code. Authorizations to approve continuing education programs and courses shall expire and may be renewed according to the schedule established in rules adopted under section 4723.07 of the Revised Code.

In addition to approving continuing education programs under division (A)(8) of this section, the board may sponsor continuing education activities that are directly related to the statutes and rules the board enforces.

(C)(1) The board may deny conditional approval to a new prelicensure nursing education program or program that is being reestablished after having ceased to operate if the program is controlled by a person who controls or has controlled a program that had its approval withdrawn, revoked, suspended, or restricted by the board or a board of another jurisdiction that is a member of the national council of state boards of nursing. If the board proposes to deny approval, it shall do so pursuant to an adjudication conducted under Chapter 119. of the Revised Code.

(2) As used in this division, "control" means any of the following:

(a) Holding fifty per cent or more of the outstanding voting securities or membership interest of a prelicensure nursing education program;

(b) In the case of an unincorporated prelicensure nursing education program, having the right to fifty per cent or more of the program's profits or in the event of a dissolution, fifty per cent or more of the program's assets;

(c) In the case of a prelicensure nursing education program that is a for-profit or not-for-profit corporation, having the contractual authority presently to designate fifty per cent or more of its directors;

(d) In the case of a prelicensure nursing education program that is a trust, having the contractual authority presently to designate fifty per cent or more of its trustees;

(e) Having the authority to direct the management, policies, or investments of a prelicensure nursing education program.

(D)(1) When an action taken by the board under division (A)(6), (7), or (17) or (C)(1) of this section is required to be taken pursuant to an adjudication conducted under Chapter 119. of the Revised Code, the board may, in lieu of an adjudication hearing, enter into a consent agreement to resolve the matter. A consent agreement, when ratified by a vote of a quorum of the board, constitutes the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the agreement are of no effect.

(2) In any instance in which the board is required under Chapter 119. of the Revised Code to give notice to a person seeking approval of a prelicensure nursing education program of an opportunity for a hearing and the person does not make a timely request for a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by a vote of a quorum, a final order that contains the board's findings.

(3) When the board denies or withdraws approval of a prelicensure nursing education program, the board may specify that its action is permanent. A program subject to a permanent action taken by the board is forever ineligible for approval and the board shall not accept an application for the program's reinstatement or approval.

**Sec. 4723.08.** (A) The board of nursing may impose fees not to exceed the following limits:

(1) For application for licensure by examination or endorsement to practice nursing as a registered nurse or as a licensed practical nurse, seventy-five dollars;

(2) For application for licensure to practice nursing as an advanced practice registered nurse, one hundred fifty dollars;

(3) For application for a dialysis technician intern certificate, the amount specified in rules adopted under section 4723.79 of the Revised Code;

(4) For application for a dialysis technician certificate, the amount specified in rules adopted under section 4723.79 of the Revised Code;

(5) For providing, pursuant to division (B) of section 4723.271 of the Revised Code, written verification of a nursing license, dialysis technician certificate, medication aide certificate, or community health worker certificate to another jurisdiction, fifteen dollars;

(6) For providing, pursuant to division (A) of section 4723.271 of the Revised Code, a replacement copy of a wall certificate suitable for framing as described in that division, twenty-five dollars;

(7) For renewal of a license to practice as a registered nurse or licensed practical nurse, sixty-five dollars;

(8) For renewal of a license to practice as an advanced practice registered nurse, one hundred thirty-five dollars;

(9) For renewal of a dialysis technician certificate, the amount specified in rules adopted under section 4723.79 of the Revised Code;

(10) For processing a late application for renewal of a nursing license, certificate of authority, or dialysis technician certificate, fifty dollars;

(11) For application for authorization to approve continuing education programs and courses from an applicant accredited by a national accreditation system for nursing, five hundred dollars;

(12) For application for authorization to approve continuing education programs and courses from an applicant not accredited by a national accreditation system for nursing, one thousand dollars;

(13) For each year for which authorization to approve continuing education programs and courses is renewed, one hundred fifty dollars;

(14) For application for approval to operate a dialysis training program, the amount specified in rules adopted under section 4723.79 of the Revised Code;

(15) For reinstatement of a lapsed license or certificate issued under this chapter, one hundred dollars except as provided in section 5903.10 of the Revised Code;

(16) For processing a check returned to the board by a financial institution, twenty-five dollars;

(17) The amounts specified in rules adopted under section 4723.88 of the Revised Code pertaining to the issuance of certificates to community health workers, including fees for application for a certificate, renewal of a certificate, processing a late application for renewal of a certificate, reinstatement of a lapsed certificate, application for approval of a community health worker training program for community health workers, and renewal of the approval of a training program for community health workers.

(B) Each quarter, for purposes of transferring funds under section 4743.05 of the Revised Code to the nurse education assistance fund created in section 3333.28 of the Revised Code, the board of nursing shall certify to the director of budget and management the number of licenses renewed under this chapter during the preceding quarter and the amount equal to that number times five dollars.

(C) The board may charge a participant in a board-sponsored continuing education activity an amount not exceeding fifteen dollars for each activity.

(D) The board may contract for services pertaining to the process of providing written verification of a license or certificate when the verification is performed for purposes other than providing verification to another jurisdiction. The contract may include provisions pertaining to the collection of the fee charged for providing the written verification. As part of these provisions, the board may permit the contractor to retain a portion of the fees as compensation, before any amounts are deposited into the state treasury.

**Sec. 4723.482.** (A) An applicant for a license to practice nursing as an advanced practice registered nurse who seeks designation as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall include with the application submitted under section 4723.41 of the Revised Code evidence of successfully completing the course of study in advanced pharmacology and related topics in accordance with the requirements specified in division (B) of this section.

(B) With respect to the course of study in advanced pharmacology and related topics, all of the following requirements apply:

(1) The course of study shall be completed not longer than five years before the application is filed.

(2) The course of study shall be not less than forty-five contact hours.

(3) The course of study shall meet the requirements to be approved by the board in accordance with standards established in rules adopted under section 4723.50 of the Revised Code.

(4) The content of the course of study shall be specific to the applicant's nursing specialty.

(5) The instruction provided in the course of study shall include all of the following:

(a) A minimum of thirty-six contact hours of instruction in advanced pharmacology that includes pharmacokinetic principles and clinical application and the use of drugs and therapeutic devices in the prevention of illness and maintenance of health;

(b) Instruction in the fiscal and ethical implications of prescribing drugs and therapeutic devices;

(c) Instruction in the state and federal laws that apply to the authority to prescribe;

(d) Instruction that is specific to schedule II controlled substances, including instruction in all of the following:

(i) Indications for the use of schedule II controlled substances in drug therapies;

(ii) The most recent guidelines for pain management therapies, as established by state and national organizations such as the Ohio pain initiative and the American pain society;

(iii) Fiscal and ethical implications of prescribing schedule II controlled substances;

(iv) State and federal laws that apply to the authority to prescribe schedule II controlled substances;

(v) Prevention of abuse and diversion of schedule II controlled substances, including identification of the risk of abuse and diversion, recognition of abuse and diversion, types of assistance available for prevention of abuse and diversion, and methods of establishing safeguards against abuse and diversion.

(C) An applicant who practiced or is practicing as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner in another jurisdiction or as an employee of the United States government shall include with the application submitted under section 4723.41 of the Revised Code all of the following:



(1) Evidence of having completed a two-hour course of instruction approved by the board in the laws of this state that govern drugs and prescriptive authority;

(2) Either of the following:

(a) Evidence of having held, for a continuous period of at least one year during the three years immediately preceding the date of application, valid authority issued by another jurisdiction to prescribe therapeutic devices and drugs, including at least some controlled substances;

(b) Evidence of having been employed by the United States government and authorized, for a continuous period of at least one year during the three years immediately preceding the date of application, to prescribe therapeutic devices and drugs, including at least some controlled substances, in conjunction with that employment.

**Sec. 4723.50.** (A) As used in this section:

(1) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(2) "Medication-assisted treatment" has the same meaning as in section 340.01 of the Revised Code.

(B) In accordance with Chapter 119. of the Revised Code, the board of nursing shall adopt rules as necessary to implement the provisions of this chapter pertaining to the authority of advanced practice registered nurses who are designated as clinical nurse specialists, certified nurse-midwives, and certified nurse practitioners to prescribe and furnish drugs and therapeutic devices.

The board shall adopt rules that are consistent with a recommended exclusionary formulary the board receives from the committee on prescriptive governance pursuant to section 4723.492 of the Revised Code. After reviewing a formulary submitted by the committee, the board may either adopt the formulary as a rule or ask the committee to reconsider and resubmit the formulary. The board shall not adopt any rule that does not conform to a formulary developed by the committee.

The exclusionary formulary shall permit, in a manner consistent with section 4723.481 of the Revised Code, the prescribing of controlled substances, including drugs that contain buprenorphine used in medication-assisted treatment and both oral and long-acting opioid antagonists. The formulary shall not permit the prescribing or furnishing of any of the following:

(1) A drug or device to perform or induce an abortion;

(2) A drug or device prohibited by federal or state law.

(C) In addition to the rules described in division (B) of this section, the board shall adopt rules under this section that do the following:

(1) Establish standards for board approval of the course of study in advanced pharmacology and related topics required by section 4723.482 of the Revised Code;

(2) Establish requirements for board approval of the two-hour course of instruction in the laws of this state as required under division (C)(1) of section 4723.482 of the Revised Code and division (B)(2) of section 4723.484 of the Revised Code;

(3) Establish criteria for the components of the standard care arrangements described in section 4723.431 of the Revised Code that apply to the authority to prescribe, including the components that apply to the authority to prescribe schedule II controlled substances. The rules shall be consistent with that section and include all of the following:

(a) Quality assurance standards;

(b) Standards for periodic review by a collaborating physician or podiatrist of the records of patients treated by the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(c) Acceptable travel time between the location at which the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner is engaging in the prescribing components of the nurse's practice and the location of the nurse's collaborating physician or podiatrist;

(d) Any other criteria recommended by the committee on prescriptive governance.

**Sec. 4723.88.** The board of nursing, in accordance with Chapter 119. of the Revised Code, shall adopt rules to administer and enforce sections 4723.81 to 4723.87 of the Revised Code. The rules shall establish all of the following:

(A) Standards and procedures for issuance of community health worker certificates;

(B) Standards for evaluating the competency of an individual who applies to receive a certificate on the basis of having been employed in a capacity substantially the same as a community health worker before the board implemented the certification program;

(C) Standards and procedures for renewal of community health worker certificates, including the continuing education requirements that must be met for renewal;

(D) Standards governing the performance of activities related to nursing care that are delegated by a registered nurse to certified community health workers. In establishing the standards, the board shall specify limits on the number of certified community health workers a registered nurse may supervise at any one time.

(E) Standards and procedures for assessing the quality of the services that are provided by certified community health workers;

(F) Standards and procedures for denying, suspending, and revoking a community health worker certificate, including reasons for imposing the sanctions that are substantially similar to the reasons that sanctions are imposed under section 4723.28 of the Revised Code;

(G) Standards and procedures for approving and renewing the board's approval of training programs that prepare individuals to become certified community health workers. In establishing the standards, the board shall specify the minimum components that must be included in a training program, shall require that all approved training programs offer the standardized curriculum, and shall ensure that the curriculum enables individuals to use the training as a basis for entering programs leading to other careers, including nursing education programs.

(H) Standards for approval of continuing education programs and courses for certified community health workers;

(I) Standards and procedures for withdrawing the board's approval of a training program,

refusing to renew the approval of a training program, and placing a training program on provisional approval;

(J) Amounts for each fee that may be imposed under division (A)(17) of section 4723.08 of the Revised Code;

(K) Any other standards or procedures the board considers necessary and appropriate for the administration and enforcement of sections 4723.81 to 4723.87 of the Revised Code.

**Sec. 4725.40.** As used in sections 4725.40 to 4725.59 of the Revised Code:

(A) "Optical aid" means both of the following:

(1) Spectacles or other instruments or devices that are not contact lenses, if the spectacles or other instruments or devices may aid or correct human vision and have been prescribed by a physician or optometrist licensed by any state;

(2) Contact lenses, regardless of whether they address visual function, if they are designed to fit over the cornea of the eye or are otherwise designed for use in or on the eye or orbit.

All contact lenses shall be dispensed only in accordance with a valid written prescription designated for contact lenses, including the following:

(a) Zero-powered plano contact lenses;

(b) Cosmetic contact lenses;

(c) Performance-enhancing contact lenses;

(d) Any other contact devices determined by the state vision professionals board to be contact lenses.

(B) "Optical dispensing" means interpreting but not altering a prescription of a licensed physician or optometrist and designing, adapting, fitting, or replacing the prescribed optical aids, pursuant to such prescription, to or for the intended wearer; duplicating lenses, other than contact lenses, accurately as to power without a prescription; and duplicating nonprescription eyewear and parts of eyewear. "Optical dispensing" does not include selecting frames, placing an order for the delivery of an optical aid, transacting a sale, transferring an optical aid to the wearer after an optician has completed fitting it, or providing instruction in the general care and use of an optical aid, including placement, removal, hygiene, or cleaning.

(C) "Licensed dispensing optician" means a person holding a current, valid license issued under sections 4725.48 to 4725.51 of the Revised Code that authorizes the person to engage in optical dispensing. Nothing in this chapter shall be construed to permit a licensed dispensing optician to alter the specifications of a prescription.

(D) "Licensed spectacle dispensing optician" means a licensed dispensing optician authorized to engage in both of the following:

(1) The dispensing of optical aids other than contact lenses;

(2) The dispensing of prepackaged soft contact lenses in accordance with section 4725.411 of the Revised Code.

(E) "Licensed contact lens dispensing optician" means a licensed dispensing optician authorized to engage only in the dispensing of contact lenses.

(F) "Licensed spectacle-contact lens dispensing optician" means a licensed dispensing optician authorized to engage in the dispensing of any optical aid.

(G) "Apprentice" means any person dispensing optical aids under the direct supervision of a

licensed dispensing optician.

(H) "Prescription" means the written or verbal directions or instructions as specified by a physician or optometrist licensed by any state for preparing an optical aid for a patient.

(I) "Supervision" means the provision of direction and control through personal inspection and evaluation of work.

(J) "Licensed ocularist" means a person holding a current, valid license issued under sections 4725.48 to 4725.51 of the Revised Code to engage in the practice of designing, fabricating, and fitting artificial eyes or prostheses associated with the appearance or function of the human eye.

**Sec. 4725.411.** (A) Each licensed spectacle dispensing optician shall complete two hours of study in prepackaged soft contact lens dispensing approved by the state vision professionals board under section 4725.51 of the Revised Code. The two hours of study shall be completed as follows:

(1) Each licensed spectacle dispensing optician who holds the license on September 29, 2015, shall complete the two hours of study not later than December 31, 2015.

(2) Each licensed spectacle dispensing optician who receives the license after September 29, 2015, shall complete the two hours of study not later than the thirty-first day of December of the year the license is issued.

(B) Beginning January 1, 2016, a licensed spectacle dispensing optician may dispense prepackaged soft contact lenses if both of the following are the case:

(1) The licensed spectacle dispensing optician has completed two hours of study in prepackaged soft contact lens dispensing in accordance with division (A) of this section.

(2) The only action necessary is to match the description of the contact lenses that is on the packaging to a written prescription.

**Sec. 4725.51.** (A)(1) Each license issued under sections 4725.40 to 4725.59 of the Revised Code shall expire on the first day of January in the year after it was issued. Each person holding a valid, current license may apply to the state vision professionals board for the extension of the license under the standard renewal procedures of Chapter 4745. of the Revised Code. Each application for renewal shall be accompanied by a renewal fee the board shall establish by rule. In addition, except as provided in division (A)(2) of this section, the application shall contain evidence that the applicant has completed continuing education within the immediately preceding one-year period as follows:

(a) Licensed spectacle dispensing opticians shall have pursued both of the following, approved by the board:

(i) Four hours of study in spectacle dispensing;

(ii) Two hours of study in contact lens dispensing.

(b) Licensed contact lens dispensing opticians shall have pursued eight hours of study in contact lens dispensing, approved by the board.

(c) Licensed spectacle-contact lens dispensing opticians shall have pursued both of the following, approved by the board:

(i) Four hours of study in spectacle dispensing;

(ii) Eight hours of study in contact lens dispensing.

(d) Licensed ocularists shall have pursued courses of study as prescribed by rule of the board.

(2) An application for the initial renewal of a license issued under sections 4725.40 to 4725.55 of the Revised Code is not required to contain evidence that the applicant has completed the

continuing education requirements of division (A)(1) of this section.

(B) No person who fails to renew the person's license under division (A) of this section shall be required to take a qualifying examination under section 4725.48 of the Revised Code as a condition of renewal, provided that the application for renewal and proof of the requisite continuing education hours are submitted within ninety days from the date the license expired and the applicant pays the annual renewal fee and a penalty of seventy-five dollars. The board may provide, by rule, for an extension of the grace period for licensed dispensing opticians who are serving in the armed forces of the United States or a reserve component of the armed forces of the United States, including the Ohio national guard or the national guard of any other state and for waiver of the continuing education requirements or the penalty in cases of hardship or illness.

(C) The board shall approve continuing education programs and shall adopt rules as necessary for approving the programs. The rules shall permit programs to be conducted either in person or through electronic or other self-study means. Approved programs shall be scheduled, sponsored, and conducted in accordance with the board's rules.

(D) Any license given a grandfathered issuance or renewal between March 22, 1979, and March 22, 1980, shall be renewed in accordance with this section.

**Sec. 4729.51.** (A) No person other than a licensed manufacturer of dangerous drugs, outsourcing facility, third-party logistics provider, repackager of dangerous drugs, or wholesale distributor of dangerous drugs shall possess for sale, sell, distribute, or deliver, at wholesale, dangerous drugs or investigational drugs or products, except as follows:

(1) A licensed terminal distributor of dangerous drugs that is a pharmacy may make occasional sales of dangerous drugs or investigational drugs or products at wholesale.

(2) A licensed terminal distributor of dangerous drugs having more than one licensed location may transfer or deliver dangerous drugs from one licensed location to another licensed location owned by the terminal distributor if the license issued for each location is in effect at the time of the transfer or delivery.

(3) A licensed terminal distributor of dangerous drugs that is not a pharmacy may make occasional sales of naloxone at wholesale.

(B) No licensed manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor shall possess for sale, sell, or distribute, at wholesale, dangerous drugs or investigational drugs or products to any person other than the following:

(1) Subject to division (D) of this section, a licensed terminal distributor of dangerous drugs;

(2) Subject to division (C) of this section, any person exempt from licensure as a terminal distributor of dangerous drugs under section 4729.541 of the Revised Code;

(3) A licensed manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor;

(4) A terminal distributor, manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor that is located in another state, is not engaged in the sale of dangerous drugs within this state, and is actively licensed to engage in the sale of dangerous drugs by the state in which the distributor conducts business.

(C) No licensed manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor shall possess for sale, sell, or distribute, at wholesale, dangerous drugs or

investigational drugs or products to either of the following:

(1) A prescriber who is employed by either of the following:

(a) A pain management clinic that is not licensed as a terminal distributor of dangerous drugs with a pain management clinic classification issued under section 4729.552 of the Revised Code;

(b) A facility, clinic, or other location that provides office-based opioid treatment but is not licensed as a terminal distributor of dangerous drugs with an office-based opioid treatment classification issued under section 4729.553 of the Revised Code if such a license is required by that section.

(2) A business entity described in division (A)(2) or (3) of section 4729.541 of the Revised Code that is, or is operating, either of the following:

(a) A pain management clinic without a license as a terminal distributor of dangerous drugs with a pain management clinic classification issued under section 4729.552 of the Revised Code;

(b) A facility, clinic, or other location that provides office-based opioid treatment without a license as a terminal distributor of dangerous drugs with an office-based opioid treatment classification issued under section 4729.553 of the Revised Code if such a license is required by that section.

(D) No licensed manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor shall possess dangerous drugs or investigational drugs or products for sale at wholesale, or sell or distribute such drugs at wholesale, to a licensed terminal distributor of dangerous drugs, except as follows:

(1) In the case of a terminal distributor with a category II license, only dangerous drugs in category II, as defined in division (A)(1) of section 4729.54 of the Revised Code;

(2) In the case of a terminal distributor with a category III license, dangerous drugs in category II and category III, as defined in divisions (A)(1) and (2) of section 4729.54 of the Revised Code;

(3) In the case of a terminal distributor with a limited category II or III license, only the dangerous drugs specified in the license.

(E)(1) Except as provided in division (E)(2) of this section, no person shall do any of the following:

(a) Sell or distribute, at retail, dangerous drugs;

(b) Possess for sale, at retail, dangerous drugs;

(c) Possess dangerous drugs.

(2)(a) Divisions (E)(1)(a), (b), and (c) of this section do not apply to any of the following:

(i) A licensed terminal distributor of dangerous drugs;

(ii) A person who possesses, or possesses for sale or sells, at retail, a dangerous drug in accordance with Chapters 3719., 4715., 4723., 4725., 4729., 4730., 4731., and 4741. of the Revised Code;

(iii) Any of the persons identified in divisions (A)(1) to (5) and (13) of section 4729.541 of the Revised Code, but only to the extent specified in that section.

(b) Division (E)(1)(c) of this section does not apply to any of the following:

(i) A licensed manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor;

(ii) Any of the persons identified in divisions (A)(6) to (12) of section 4729.541 of the Revised Code, but only to the extent specified in that section.

(F) No licensed terminal distributor of dangerous drugs or person that is exempt from licensure under section 4729.541 of the Revised Code shall purchase dangerous drugs or investigational drugs or products from any person other than a licensed manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor, except as follows:

(1) A licensed terminal distributor of dangerous drugs or person that is exempt from licensure under section 4729.541 of the Revised Code may make occasional purchases of dangerous drugs or investigational drugs or products that are sold in accordance with division (A)(1) or (3) of this section.

(2) A licensed terminal distributor of dangerous drugs having more than one licensed location may transfer or deliver dangerous drugs or investigational drugs or products from one licensed location to another licensed location if the license issued for each location is in effect at the time of the transfer or delivery.

(G) No licensed terminal distributor of dangerous drugs shall engage in the retail sale or other distribution of dangerous drugs or investigational drugs or products or maintain possession, custody, or control of dangerous drugs or investigational drugs or products for any purpose other than the distributor's personal use or consumption, at any establishment or place other than that or those described in the license issued by the state board of pharmacy to such terminal distributor.

(H) Nothing in this section shall be construed to interfere with the performance of official duties by any law enforcement official authorized by municipal, county, state, or federal law to collect samples of any drug, regardless of its nature or in whose possession it may be.

(I) Notwithstanding anything to the contrary in this section, the board of education of a city, local, exempted village, or joint vocational school district may distribute epinephrine autoinjectors for use in accordance with section 3313.7110 of the Revised Code and may distribute inhalers for use in accordance with section 3313.7113 of the Revised Code.

**Sec. 4729.53.** (A) The state board of pharmacy shall not license any person as a manufacturer of dangerous drugs, outsourcing facility, third-party logistics provider, repackager of dangerous drugs, or wholesale distributor of dangerous drugs unless the applicant for licensure furnishes satisfactory proof to the board that the applicant meets all of the following:

(1) If the applicant has committed acts that the board finds violate any federal, state, or local law, regulation, or rule relating to drug samples, manufacturing, compounding, repackaging, wholesale or retail drug distribution, or distribution of dangerous drugs, including controlled substances, or constitute a felony, or if a federal, state, or local governmental entity has suspended or revoked any current or prior license of the applicant for the manufacture, compounding, repackaging, distribution, or sale of any dangerous drugs, including controlled substances, the applicant, to the satisfaction of the board, assures that the applicant has in place adequate safeguards to prevent the recurrence of any such violations.

(2) The applicant's past experience in the manufacture, compounding, repackaging, or distribution of dangerous drugs, including controlled substances, is acceptable to the board.

(3) The applicant is properly equipped as to land, buildings, equipment, and personnel to properly carry on its business, including providing adequate security for and proper storage

conditions and handling for dangerous drugs, and is complying with the requirements under this chapter and the rules adopted pursuant thereto for maintaining and making available records to properly identified board officials and federal, state, and local law enforcement agencies.

(4) Personnel employed by the applicant have the appropriate education or experience, as determined by the board, to assume responsibility for positions related to compliance with this chapter and the rules adopted pursuant thereto.

(5) The applicant has designated the name and address of a person to whom communications from the board may be directed and upon whom the notices and citations provided for in section 4729.56 of the Revised Code may be served.

(6) Adequate safeguards are assured to prevent the sale of dangerous drugs other than in accordance with section 4729.51 of the Revised Code.

(7) Any other requirement or qualification the board, by rule adopted in accordance with Chapter 119. of the Revised Code, considers relevant to and consistent with the public safety and health.

(B) In addition to the causes described in section 4729.56 of the Revised Code for refusing to grant or renew a license, the board may refuse to grant or renew a license if the board determines that the granting of the license or its renewal is not in the public interest.

**Sec. 4729.541.** (A) Except as provided in divisions (B) to (D) of this section, all of the following are exempt from licensure as a terminal distributor of dangerous drugs:

(1) A licensed health professional authorized to prescribe drugs;

(2) A business entity that is a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. of the Revised Code, or a professional association formed under Chapter 1785. of the Revised Code if the entity has a sole shareholder who is a prescriber and is authorized to provide the professional services being offered by the entity;

(3) A business entity that is a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. of the Revised Code, a partnership or a limited liability partnership formed under Chapter 1775. of the Revised Code, or a professional association formed under Chapter 1785. of the Revised Code, if, to be a shareholder, member, or partner, an individual is required to be licensed, certified, or otherwise legally authorized under Title XLVII of the Revised Code to perform the professional service provided by the entity and each such individual is a prescriber;

(4) An individual who holds a current license, certificate, or registration issued under Title XLVII of the Revised Code and has been certified to conduct diabetes education by a national certifying body specified in rules adopted by the state board of pharmacy under section 4729.68 of the Revised Code, but only with respect to insulin that will be used for the purpose of diabetes education and only if diabetes education is within the individual's scope of practice under statutes and rules regulating the individual's profession;

(5) An individual who holds a valid certificate issued by a nationally recognized S.C.U.B.A. diving certifying organization approved by the state board of pharmacy under rules adopted by the board, but only with respect to medical oxygen that will be used for the purpose of emergency care or treatment at the scene of a diving emergency;



(6) With respect to epinephrine autoinjectors that may be possessed under section 3313.7110, 3313.7111, 3314.143, 3326.28, or 3328.29 of the Revised Code, any of the following: the board of education of a city, local, exempted village, or joint vocational school district; a chartered or nonchartered nonpublic school; a community school established under Chapter 3314. of the Revised Code; a STEM school established under Chapter 3326. of the Revised Code; or a college-preparatory boarding school established under Chapter 3328. of the Revised Code;

(7) With respect to epinephrine autoinjectors that may be possessed under section 5101.76 of the Revised Code, any of the following: a residential camp, as defined in section 2151.011 of the Revised Code; a child day camp, as defined in section 5104.01 of the Revised Code; or a child day camp operated by any county, township, municipal corporation, township park district created under section 511.18 of the Revised Code, park district created under section 1545.04 of the Revised Code, or joint recreation district established under section 755.14 of the Revised Code;

(8) With respect to epinephrine autoinjectors that may be possessed under Chapter 3728. of the Revised Code, a qualified entity, as defined in section 3728.01 of the Revised Code;

(9) With respect to inhalers that may be possessed under section 3313.7113, 3313.7114, 3314.144, 3326.30, or 3328.30 of the Revised Code, any of the following: the board of education of a city, local, exempted village, or joint vocational school district; a chartered or nonchartered nonpublic school; a community school established under Chapter 3314. of the Revised Code; a STEM school established under Chapter 3326. of the Revised Code; or a college-preparatory boarding school established under Chapter 3328. of the Revised Code;

(10) With respect to inhalers that may be possessed under section 5101.77 of the Revised Code, any of the following: a residential camp, as defined in section 2151.011 of the Revised Code; a child day camp, as defined in section 5104.01 of the Revised Code; or a child day camp operated by any county, township, municipal corporation, township park district created under section 511.18 of the Revised Code, park district created under section 1545.04 of the Revised Code, or joint recreation district established under section 755.14 of the Revised Code;

(11) With respect to naloxone that may be possessed under section 2925.61 of the Revised Code, a law enforcement agency and its peace officers;

(12) With respect to naloxone that may be possessed under section 4729.514 of the Revised Code, a service entity, as defined in that section;

(13) A facility that is owned and operated by the United States department of defense, the United States department of veterans affairs, or any other federal agency.

(B) If a person described in division (A) of this section is a pain management clinic or is operating a pain management clinic, the person shall hold a license as a terminal distributor of dangerous drugs with a pain management clinic classification issued under section 4729.552 of the Revised Code.

(C) If a person described in division (A) of this section is operating a facility, clinic, or other location described in division (B) of section 4729.553 of the Revised Code that must hold a category III terminal distributor of dangerous drugs license with an office-based opioid treatment classification, the person shall hold a license with that classification.

(D) Any of the persons described in divisions (A)(1) to (12) of this section shall hold a license as a terminal distributor of dangerous drugs in order to possess, have custody or control of,

and distribute any of the following:

(1) Dangerous drugs that are compounded or used for the purpose of compounding;

(2) A schedule I, II, III, IV, or V controlled substance, as defined in section 3719.01 of the Revised Code.

**Sec. 4729.56.** (A)(1) The state board of pharmacy, in accordance with Chapter 119. of the Revised Code, may impose any one or more of the following sanctions on a person licensed under division (B)(1)(a) of section 4729.52 of the Revised Code for any of the causes set forth in division (A)(2) of this section:

(a) Suspend, revoke, restrict, limit, or refuse to grant or renew a license;

(b) Reprimand or place the license holder on probation;

(c) Impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Revised Code for a similar offense or two thousand five hundred dollars if the acts committed are not classified as an offense by the Revised Code;

(2) The board may impose the sanctions set forth in division (A)(1) of this section for any of the following:

(a) Making any false material statements in an application for licensure under section 4729.52 of the Revised Code;

(b) Violating any federal, state, or local drug law; any provision of this chapter or Chapter 2925., 3715., or 3719. of the Revised Code; or any rule of the board;

(c) A conviction of a felony;

(d) Failing to satisfy the qualifications for licensure under section 4729.53 of the Revised Code or the rules of the board or ceasing to satisfy the qualifications after the registration is granted or renewed;

(e) Falsely or fraudulently promoting to the public a drug that is a controlled substance included in schedule I, II, III, IV, or V, except that nothing in this division prohibits a manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor of dangerous drugs from furnishing information concerning a controlled substance to a health care provider or licensed terminal distributor;

(f) Violating any provision of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C. 301, or Chapter 3715. of the Revised Code;

(g) Any other cause for which the board may impose sanctions as set forth in rules adopted under section 4729.26 of the Revised Code.

(B) Upon the suspension or revocation of any license identified in division (B)(1)(a) of section 4729.52 of the Revised Code, the licensee shall immediately surrender the license to the board.

(C) If the board suspends, revokes, or refuses to renew any license identified in division (B)(1)(a) of section 4729.52 of the Revised Code and determines that there is clear and convincing evidence of a danger of immediate and serious harm to any person, the board may place under seal all dangerous drugs owned by or in the possession, custody, or control of the affected licensee. Except as provided in this division, the board shall not dispose of the dangerous drugs sealed under this division until the licensee exhausts all of the licensee's appeal rights under Chapter 119. of the Revised Code. The court involved in such an appeal may order the board, during the pendency of the

appeal, to sell sealed dangerous drugs that are perishable. The board shall deposit the proceeds of the sale with the court.

(D) If the board is required under Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and the license holder does not make a timely request for a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt a final order that contains the board's findings. In the final order, the board may impose any of the sanctions listed in division (A) of this section.

(E) Notwithstanding division (C)(2) of section 2953.32 of the Revised Code specifying that if records pertaining to a criminal case are sealed under that section the proceedings in the case must be deemed not to have occurred, sealing of the following records on which the board has based an action under this section shall have no effect on the board's action or any sanction imposed by the board under this section: records of any conviction, guilty plea, judicial finding of guilt resulting from a plea of no contest, or a judicial finding of eligibility for a pretrial diversion program or intervention in lieu of conviction. The board is not required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

**Sec. 4729.80.** (A) If the state board of pharmacy establishes and maintains a drug database pursuant to section 4729.75 of the Revised Code, the board is authorized or required to provide information from the database only as follows:

(1) On receipt of a request from a designated representative of a government entity responsible for the licensure, regulation, or discipline of health care professionals with authority to prescribe, administer, or dispense drugs, the board may provide to the representative information from the database relating to the professional who is the subject of an active investigation being conducted by the government entity or relating to a professional who is acting as an expert witness for the government entity in such an investigation.

(2) On receipt of a request from a federal officer, or a state or local officer of this or any other state, whose duties include enforcing laws relating to drugs, the board shall provide to the officer information from the database relating to the person who is the subject of an active investigation of a drug abuse offense, as defined in section 2925.01 of the Revised Code, being conducted by the officer's employing government entity.

(3) Pursuant to a subpoena issued by a grand jury, the board shall provide to the grand jury information from the database relating to the person who is the subject of an investigation being conducted by the grand jury.

(4) Pursuant to a subpoena, search warrant, or court order in connection with the investigation or prosecution of a possible or alleged criminal offense, the board shall provide information from the database as necessary to comply with the subpoena, search warrant, or court order.

(5) On receipt of a request from a prescriber or the prescriber's delegate approved by the board, the board shall provide to the prescriber a report of information from the database relating to a patient who is either a current patient of the prescriber or a potential patient of the prescriber based on a referral of the patient to the prescriber, if all of the following conditions are met:

(a) The prescriber certifies in a form specified by the board that it is for the purpose of providing medical treatment to the patient who is the subject of the request;

(b) The prescriber has not been denied access to the database by the board.

(6) On receipt of a request from a pharmacist or the pharmacist's delegate approved by the board, the board shall provide to the pharmacist information from the database relating to a current patient of the pharmacist, if the pharmacist certifies in a form specified by the board that it is for the purpose of the pharmacist's practice of pharmacy involving the patient who is the subject of the request and the pharmacist has not been denied access to the database by the board.

(7) On receipt of a request from an individual seeking the individual's own database information in accordance with the procedure established in rules adopted under section 4729.84 of the Revised Code, the board may provide to the individual the individual's own prescription history.

(8) On receipt of a request from a medical director or a pharmacy director of a managed care organization that has entered into a contract with the department of medicaid under section 5167.10 of the Revised Code and a data security agreement with the board required by section 5167.14 of the Revised Code, the board shall provide to the medical director or the pharmacy director information from the database relating to a medicaid recipient enrolled in the managed care organization, including information in the database related to prescriptions for the recipient that were not covered or reimbursed under a program administered by the department of medicaid.

(9) On receipt of a request from the medicaid director, the board shall provide to the director information from the database relating to a recipient of a program administered by the department of medicaid, including information in the database related to prescriptions for the recipient that were not covered or paid by a program administered by the department.

(10) On receipt of a request from a medical director of a managed care organization that has entered into a contract with the administrator of workers' compensation under division (B)(4) of section 4121.44 of the Revised Code and a data security agreement with the board required by section 4121.447 of the Revised Code, the board shall provide to the medical director information from the database relating to a claimant under Chapter 4121., 4123., 4127., or 4131. of the Revised Code assigned to the managed care organization, including information in the database related to prescriptions for the claimant that were not covered or reimbursed under Chapter 4121., 4123., 4127., or 4131. of the Revised Code, if the administrator of workers' compensation confirms, upon request from the board, that the claimant is assigned to the managed care organization.

(11) On receipt of a request from the administrator of workers' compensation, the board shall provide to the administrator information from the database relating to a claimant under Chapter 4121., 4123., 4127., or 4131. of the Revised Code, including information in the database related to prescriptions for the claimant that were not covered or reimbursed under Chapter 4121., 4123., 4127., or 4131. of the Revised Code.

(12) On receipt of a request from a prescriber or the prescriber's delegate approved by the board, the board shall provide to the prescriber information from the database relating to a patient's mother, if the prescriber certifies in a form specified by the board that it is for the purpose of providing medical treatment to a newborn or infant patient diagnosed as opioid dependent and the prescriber has not been denied access to the database by the board.

(13) On receipt of a request from the director of health, the board shall provide to the director information from the database relating to the duties of the director or the department of health in implementing the Ohio violent death reporting system established under section 3701.93 of the

Revised Code.

(14) On receipt of a request from a requestor described in division (A)(1), (2), (5), or (6) of this section who is from or participating with another state's prescription monitoring program, the board may provide to the requestor information from the database, but only if there is a written agreement under which the information is to be used and disseminated according to the laws of this state.

(15) On receipt of a request from a delegate of a retail dispensary licensed under Chapter 3796. of the Revised Code who is approved by the board to serve as the dispensary's delegate, the board shall provide to the delegate a report of information from the database pertaining only to a patient's use of medical marijuana, if both of the following conditions are met:

(a) The delegate certifies in a form specified by the board that it is for the purpose of dispensing medical marijuana for use in accordance with Chapter 3796. of the Revised Code.

(b) The retail dispensary or delegate has not been denied access to the database by the board.

(16) On receipt of a request from a judge of a program certified by the Ohio supreme court as a specialized docket program for drugs, the board shall provide to the judge, or an employee of the program who is designated by the judge to receive the information, information from the database that relates specifically to a current or prospective program participant.

(17) On receipt of a request from a coroner, deputy coroner, or coroner's delegate approved by the board, the board shall provide to the requestor information from the database relating to a deceased person about whom the coroner is conducting or has conducted an autopsy or investigation.

(18) On receipt of a request from a prescriber, the board may provide to the prescriber a summary of the prescriber's prescribing record if such a record is created by the board. Information in the summary is subject to the confidentiality requirements of this chapter.

(19)(a) On receipt of a request from a pharmacy's responsible person, the board may provide to the responsible person a summary of the pharmacy's dispensing record if such a record is created by the board. Information in the summary is subject to the confidentiality requirements of this chapter.

(b) As used in division (A)(19)(a) of this section, "responsible person" has the same meaning as in rules adopted by the board under section 4729.26 of the Revised Code.

(20) The board may provide information from the database without request to a prescriber or pharmacist who is authorized to use the database pursuant to this chapter.

(21)(a) On receipt of a request from a prescriber or pharmacist, or the prescriber's or pharmacist's delegate, who is a designated representative of a peer review committee, the board shall provide to the committee information from the database relating to a prescriber who is subject to the committee's evaluation, supervision, or discipline if the information is to be used for one of those purposes. The board shall provide only information that it determines, in accordance with rules adopted under section 4729.84 of the Revised Code, is appropriate to be provided to the committee.

(b) As used in division (A)(21)(a) of this section, "peer review committee" has the same meaning as in section 2305.25 of the Revised Code, except that it includes only a peer review committee of a hospital or a peer review committee of a nonprofit health care corporation that is a member of the hospital or of which the hospital is a member.

(22) Any personal health information submitted to the board pursuant to section 4729.772 of

the Revised Code may be provided by the board only as authorized by the submitter of the information and in accordance with rules adopted under section 4729.84 of the Revised Code.

(B) The state board of pharmacy shall maintain a record of each individual or entity that requests information from the database pursuant to this section. In accordance with rules adopted under section 4729.84 of the Revised Code, the board may use the records to document and report statistics and law enforcement outcomes.

The board may provide records of an individual's requests for database information only to the following:

(1) A designated representative of a government entity that is responsible for the licensure, regulation, or discipline of health care professionals with authority to prescribe, administer, or dispense drugs who is involved in an active criminal or disciplinary investigation being conducted by the government entity of the individual who submitted the requests for database information;

(2) A federal officer, or a state or local officer of this or any other state, whose duties include enforcing laws relating to drugs and who is involved in an active investigation being conducted by the officer's employing government entity of the individual who submitted the requests for database information;

(3) A designated representative of the department of medicaid regarding a prescriber who is treating or has treated a recipient of a program administered by the department and who submitted the requests for database information.

(C) Information contained in the database and any information obtained from it is confidential and is not a public record. Information contained in the records of requests for information from the database is confidential and is not a public record. Information contained in the database that does not identify a person, including any licensee or registrant of the board or other entity, may be released in summary, statistical, or aggregate form.

(D) A pharmacist or prescriber shall not be held liable in damages to any person in any civil action for injury, death, or loss to person or property on the basis that the pharmacist or prescriber did or did not seek or obtain information from the database.

**Sec. 4729.82.** (A) If the state board of pharmacy establishes a drug database pursuant to section 4729.75 of the Revised Code, the information collected for the database shall be retained in the database and accessible to persons listed in division (A) of section 4729.80 of the Revised Code for at least five years.

(B) Except as provided in division (C) of this section, any information that identifies a patient shall be destroyed after it has been retained for five years unless a law enforcement agency or a government entity responsible for the licensure, regulation, or discipline of licensed health professionals authorized to prescribe drugs has submitted a written request to the board for retention of the information in accordance with rules adopted by the board under section 4729.84 of the Revised Code.

(C) The board may retain information that identifies a patient for a period in excess of five years if the board considers retention of the information necessary to serve an investigatory or public health purpose.

**Sec. 4729.84.** For purposes of establishing and maintaining a drug database pursuant to section 4729.75 of the Revised Code, the state board of pharmacy shall adopt rules in accordance

with Chapter 119. of the Revised Code to carry out and enforce sections 4729.75 to 4729.83 of the Revised Code. The rules shall specify all of the following:

(A) A means of identifying each patient, each terminal distributor of dangerous drugs, each purchase at wholesale of dangerous drugs, and each retail dispensary licensed under Chapter 3796. of the Revised Code about which information is entered into the drug database;

(B) Requirements for the transmission of information from terminal distributors of dangerous drugs, manufacturers of dangerous drugs, outsourcing facilities, repackagers of dangerous drugs, wholesale distributors of dangerous drugs, prescribers, and retail dispensaries;

(C) An electronic format for the submission of information from persons identified in division (B) of this section;

(D) A procedure whereby a person unable to submit information electronically may obtain a waiver to submit information in another format;

(E) A procedure whereby the board may grant a request from a law enforcement agency or a government entity responsible for the licensure, regulation, or discipline of licensed health professionals authorized to prescribe drugs that information that has been stored for three years be retained when the information pertains to an open investigation being conducted by the agency or entity;

(F) A procedure whereby a person identified in division (B) of this section may apply for an extension to the time by which information must be transmitted to the board;

(G) A procedure whereby a person or government entity to which the board is authorized to provide information may submit a request to the board for the information and the board may verify the identity of the requestor;

(H) Standards for determining what information is appropriate to be provided under division (A)(21) of section 4729.80 of the Revised Code;

(I) A procedure whereby the board can use the database request records required by division (B) of section 4729.80 of the Revised Code to document and report statistics and law enforcement outcomes;

(J) A procedure whereby an individual may request the individual's own database information and the board may verify the identity of the requestor;

(K) A reasonable fee that the board may charge under section 4729.83 of the Revised Code for providing an individual with the individual's own database information pursuant to section 4729.80 of the Revised Code;

(L) The other specific dangerous drugs that, in addition to controlled substances, must be included in the database;

(M) The types of pharmacies licensed as terminal distributors of dangerous drugs that are required to submit prescription information to the board pursuant to section 4729.77 of the Revised Code;

(N) Additional data fields, recognized by the American society for automation in pharmacy, that licensed terminal distributors of dangerous drugs must submit to the board pursuant to section 4729.77 of the Revised Code;

(O) The information regarding medical marijuana dispensed to a patient that a retail dispensary is required to submit to the board pursuant to section 4729.771 of the Revised Code;

(P) Requirements for the transmission of information pursuant to section 4729.772 of the Revised Code and requirements for the release of such information by the board.

**Sec. 4729.86.** If the state board of pharmacy establishes and maintains a drug database pursuant to section 4729.75 of the Revised Code, all of the following apply:

(A)(1) No person identified in divisions (A)(1) to (13), (15) to (22), or (B) of section 4729.80 of the Revised Code shall disseminate any written or electronic information the person receives from the drug database or otherwise provide another person access to the information that the person receives from the database, except as follows:

(a) When necessary in the investigation or prosecution of a possible or alleged criminal offense;

(b) When a person provides the information to the prescriber, pharmacist, or retail dispensary licensed under Chapter 3796. of the Revised Code for whom the person is approved by the board to serve as a delegate of the prescriber, pharmacist, or retail dispensary for purposes of requesting and receiving information from the drug database under division (A)(5), (6), or (15) of section 4729.80 of the Revised Code;

(c) When a prescriber, pharmacist, or retail dispensary licensed under Chapter 3796. of the Revised Code provides the information to a person who is approved by the board to serve as such a delegate of the prescriber, pharmacist, or retail dispensary;

(d) When a prescriber or pharmacist includes the information in a medical record, as defined in section 3701.74 of the Revised Code.

(2) No person shall provide false information to the state board of pharmacy with the intent to obtain or alter information contained in the drug database.

(3) No person shall obtain drug database information by any means except as provided under section 4729.80 or 4729.81 of the Revised Code.

(B) A person shall not use information obtained pursuant to division (A) of section 4729.80 of the Revised Code as evidence in any civil or administrative proceeding.

(C)(1) Except as provided in division (C)(2) of this section, after providing notice and affording an opportunity for a hearing in accordance with Chapter 119. of the Revised Code, the board may restrict a person from obtaining further information from the drug database if any of the following is the case:

(a) The person violates division (A)(1), (2), or (3) of this section;

(b) The person is a requestor identified in division (A)(14) of section 4729.80 of the Revised Code and the board determines that the person's actions in another state would have constituted a violation of division (A)(1), (2), or (3) of this section;

(c) The person fails to comply with division (B) of this section, regardless of the jurisdiction in which the failure to comply occurred;

(d) The person creates, by clear and convincing evidence, a threat to the security of information contained in the database.

(2) If the board determines that allegations regarding a person's actions warrant restricting the person from obtaining further information from the drug database without a prior hearing, the board may summarily impose the restriction. A telephone conference call may be used for reviewing the allegations and taking a vote on the summary restriction. The summary restriction shall remain in



effect, unless removed by the board, until the board's final adjudication order becomes effective.

(3) The board shall determine the extent to which the person is restricted from obtaining further information from the database.

**Sec. 4730.14.** (A) A license to practice as a physician assistant shall expire biennially and may be renewed in accordance with this section. A person seeking to renew a license to practice as a physician assistant shall, on or before the thirty-first day of January of each even-numbered year, apply for renewal of the license. The state medical board shall provide renewal notices at least one month prior to the expiration date.

Applications shall be submitted to the board in a manner prescribed by the board. Each application shall be accompanied by a biennial renewal fee of two hundred dollars. The board shall deposit the fees in accordance with section 4731.24 of the Revised Code.

The applicant shall report any criminal offense that constitutes grounds for refusing to issue a license to practice under section 4730.25 of the Revised Code to which the applicant has pleaded guilty, of which the applicant has been found guilty, or for which the applicant has been found eligible for intervention in lieu of conviction, since last signing an application for a license to practice as a physician assistant.

(B) To be eligible for renewal of a license, an applicant is subject to all of the following:

(1) The applicant must certify to the board that the applicant has maintained certification by the national commission on certification of physician assistants or a successor organization that is recognized by the board by meeting the standards to hold current certification from the commission or its successor, including completion of continuing medical education requirements and passing periodic recertification examinations;

(2) Except as provided in division (F) of this section and section 5903.12 of the Revised Code, the applicant must certify to the board that the applicant has completed during the current licensure period not less than one hundred hours of continuing medical education acceptable to the board.

(3) The applicant must comply with the renewal eligibility requirements established under section 4730.49 of the Revised Code that pertain to the applicant.

(C) The board shall adopt rules in accordance with Chapter 119. of the Revised Code specifying the types of continuing medical education that must be completed to fulfill the board's requirements under division (B)(2) of this section. Except when additional continuing medical education is required, as specified in section 4730.49 of the Revised Code, the board shall not adopt rules that require a physician assistant to complete in any licensure period more than one hundred hours of continuing medical education acceptable to the board. In fulfilling the board's requirements, a physician assistant may use continuing medical education courses or programs completed to maintain certification by the national commission on certification of physician assistants or a successor organization that is recognized by the board if the standards for acceptable courses and programs of the commission or its successor are at least equivalent to the standards established by the board.

(D) If an applicant submits a complete renewal application and qualifies for renewal pursuant to division (B) of this section, the board shall issue to the applicant a renewed license to practice as a physician assistant.

(E) The board may require a random sample of physician assistants to submit materials documenting certification by the national commission on certification of physician assistants or a successor organization that is recognized by the board and completion of the required number of hours of continuing medical education.

(F) The board shall provide for pro rata reductions by month of the number of hours of continuing education that must be completed for individuals who are in their first licensure period, who have been disabled due to illness or accident, or who have been absent from the country. The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, as necessary to implement this division.

(G)(1) A license to practice that is not renewed on or before its expiration date is automatically suspended on its expiration date. Continued practice after suspension of the license shall be considered as practicing in violation of division (A) of section 4730.02 of the Revised Code.

(2) If a license has been suspended pursuant to division (G)(1) of this section for two years or less, it may be reinstated. The board shall reinstate a license suspended for failure to renew upon an applicant's submission of a renewal application, the biennial renewal fee, and any applicable monetary penalty.

If a license has been suspended pursuant to division (G)(1) of this section for more than two years, it may be restored. In accordance with section 4730.28 of the Revised Code, the board may restore a license suspended for failure to renew upon an applicant's submission of a restoration application, the biennial renewal fee, and any applicable monetary penalty and compliance with sections 4776.01 to 4776.04 of the Revised Code. The board shall not restore to an applicant a license to practice as a physician assistant unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a license issued pursuant to section 4730.12 of the Revised Code.

The penalty for reinstatement shall be fifty dollars and the penalty for restoration shall be one hundred dollars. The board shall deposit penalties in accordance with section 4731.24 of the Revised Code.

(H) If an individual certifies that the individual has completed the number of hours and type of continuing medical education required for renewal or reinstatement of a license to practice as a physician assistant, and the board finds through a random sample conducted under division (E) of this section or through any other means that the individual did not complete the requisite continuing medical education, the board may impose a civil penalty of not more than five thousand dollars.

A civil penalty imposed under this division may be in addition to or in lieu of any other action the board may take under section 4730.25 of the Revised Code. The board shall deposit civil penalties in accordance with section 4731.24 of the Revised Code. The board shall not conduct an adjudication under Chapter 119. of the Revised Code if the board imposes only a civil penalty.

**Sec. 4730.25.** (A) The state medical board, by an affirmative vote of not fewer than six members, may revoke or may refuse to grant a license to practice as a physician assistant to a person found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the license.

(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's license to practice as a physician assistant

or prescriber number, refuse to issue a license to an applicant, refuse to renew a ~~certificate~~ license, refuse to reinstate a license, or reprimand or place on probation the holder of a license for any of the following reasons:

(1) Failure to practice in accordance with the supervising physician's supervision agreement with the physician assistant, including, if applicable, the policies of the health care facility in which the supervising physician and physician assistant are practicing;

(2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;

(3) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board;

(4) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;

(5) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;

(6) Administering drugs for purposes other than those authorized under this chapter;

(7) Willfully betraying a professional confidence;

(8) Making a false, fraudulent, deceptive, or misleading statement in soliciting or advertising for employment as a physician assistant; in connection with any solicitation or advertisement for patients; in relation to the practice of medicine as it pertains to physician assistants; or in securing or attempting to secure a license to practice as a physician assistant.

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(9) Representing, with the purpose of obtaining compensation or other advantage personally or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured;

(10) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;

(11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;

(12) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;

(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;

(14) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;

(15) Commission of an act in the course of practice that constitutes a misdemeanor in this

state, regardless of the jurisdiction in which the act was committed;

(16) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(17) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for violating any state or federal law regulating the possession, distribution, or use of any drug, including trafficking in drugs;

(18) Any of the following actions taken by the state agency responsible for regulating the practice of physician assistants in another state, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(19) A departure from, or failure to conform to, minimal standards of care of similar physician assistants under the same or similar circumstances, regardless of whether actual injury to a patient is established;

(20) Violation of the conditions placed by the board on a license to practice as a physician assistant;

(21) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code;

(22) Failure to cooperate in an investigation conducted by the board under section 4730.26 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(23) Assisting suicide, as defined in section 3795.01 of the Revised Code;

(24) Prescribing any drug or device to perform or induce an abortion, or otherwise performing or inducing an abortion;

(25) Failure to comply with section 4730.53 of the Revised Code, unless the board no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;

(26) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing for a minor a prescription for an opioid analgesic, as defined in section 3719.01 of the Revised Code;

(27) Having certification by the national commission on certification of physician assistants or a successor organization expire, lapse, or be suspended or revoked;

(28) The revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice.

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with a physician assistant or applicant to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement,

when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.

(D) For purposes of divisions (B)(12), (15), and (16) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the applicant or license holder committed the act in question. The board shall have no jurisdiction under these divisions in cases where the trial court renders a final judgment in the license holder's favor and that judgment is based upon an adjudication on the merits. The board shall have jurisdiction under these divisions in cases where the trial court issues an order of dismissal upon technical or procedural grounds.

(E) The sealing of conviction records by any court shall have no effect upon a prior board order entered under the provisions of this section or upon the board's jurisdiction to take action under the provisions of this section if, based upon a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing prior to the court's order to seal the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

(F) For purposes of this division, any individual who holds a license issued under this chapter, or applies for a license issued under this chapter, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(1) In enforcing division (B)(4) of this section, the board, upon a showing of a possible violation, may compel any individual who holds a license issued under this chapter or who has applied for a license pursuant to this chapter to submit to a mental examination, physical examination, including an HIV test, or both a mental and physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds a physician assistant unable to practice because of the reasons set forth in division (B)(4) of this section, the board shall require the physician assistant to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for an initial, continued, reinstated, or renewed license. An individual affected under this division shall be afforded an opportunity to demonstrate to the board the ability to resume practicing in compliance with acceptable and prevailing standards of care.

(2) For purposes of division (B)(5) of this section, if the board has reason to believe that any individual who holds a license issued under this chapter or any applicant for a license suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician qualified to conduct such examination and chosen by the board.

Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's license or deny the individual's application and shall require the individual, as a condition for initial, continued, reinstated, or renewed licensure, to submit to treatment.

Before being eligible to apply for reinstatement of a license suspended under this division, the physician assistant shall demonstrate to the board the ability to resume practice or prescribing in compliance with acceptable and prevailing standards of care. The demonstration shall include the following:

- (a) Certification from a treatment provider approved under section 4731.25 of the Revised Code that the individual has successfully completed any required inpatient treatment;
- (b) Evidence of continuing full compliance with an aftercare contract or consent agreement;
- (c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making such assessments and shall describe the basis for their determination.

The board may reinstate a license suspended under this division after such demonstration and after the individual has entered into a written consent agreement.

When the impaired physician assistant resumes practice or prescribing, the board shall require continued monitoring of the physician assistant. The monitoring shall include compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of falsification stating whether the physician assistant has maintained sobriety.

(G) If the secretary and supervising member determine that there is clear and convincing evidence that a physician assistant has violated division (B) of this section and that the individual's continued practice or prescribing presents a danger of immediate and serious harm to the public, they may recommend that the board suspend the individual's license without a prior hearing. Written allegations shall be prepared for consideration by the board.

The board, upon review of those allegations and by an affirmative vote of not fewer than six of its members, excluding the secretary and supervising member, may suspend a license without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the summary suspension.

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the physician assistant requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the physician assistant requests the hearing, unless otherwise agreed to by both the board and the license holder.

A summary suspension imposed under this division shall remain in effect, unless reversed on

appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within sixty days after completion of its hearing. Failure to issue the order within sixty days shall result in dissolution of the summary suspension order, but shall not invalidate any subsequent, final adjudicative order.

(H) If the board takes action under division (B)(11), (13), or (14) of this section, and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, upon exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. Upon receipt of a petition and supporting court documents, the board shall reinstate the individual's license. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of opportunity for hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act, or if no hearing is requested, it may order any of the sanctions identified under division (B) of this section.

(I) The license to practice issued to a physician assistant and the physician assistant's practice in this state are automatically suspended as of the date the physician assistant pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another state for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after the suspension shall be considered practicing without a license.

The board shall notify the individual subject to the suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose license is suspended under this division fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the board shall enter a final order permanently revoking the individual's license to practice.

(J) In any instance in which the board is required by Chapter 119. of the Revised Code to give notice of opportunity for hearing and the individual subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In that final order, the board may order any of the sanctions identified under division (A) or (B) of this section.

(K) Any action taken by the board under division (B) of this section resulting in a suspension shall be accompanied by a written statement of the conditions under which the physician assistant's license may be reinstated. The board shall adopt rules in accordance with Chapter 119. of the Revised Code governing conditions to be imposed for reinstatement. Reinstatement of a license suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board.

(L) When the board refuses to grant or issue to an applicant a license to practice as a

physician assistant, revokes an individual's license, refuses to renew an individual's license, or refuses to reinstate an individual's license, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold the license and the board shall not accept an application for reinstatement of the license or for issuance of a new license.

(M) Notwithstanding any other provision of the Revised Code, all of the following apply:

(1) The surrender of a license issued under this chapter is not effective unless or until accepted by the board. Reinstatement of a license surrendered to the board requires an affirmative vote of not fewer than six members of the board.

(2) An application made under this chapter for a license may not be withdrawn without approval of the board.

(3) Failure by an individual to renew a license in accordance with section 4730.14 of the Revised Code shall not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.

**Sec. 4730.252.**

**Sec. 4731.07.** (A) The state medical board shall keep a record of its proceedings. The minutes of a meeting of the board shall, on approval by the board, constitute an official record of its proceedings.

(B) The board shall keep a register of applicants for certificates issued under this chapter and Chapters 4760., 4762., and 4774. of the Revised Code and licenses issued under this chapter and Chapters 4730., 4759., 4761., and 4778. of the Revised Code. The register shall show the name of the applicant and whether the applicant was granted or refused a certificate or license. With respect to applicants to practice medicine and surgery or osteopathic medicine and surgery, the register shall show the name of the institution that granted the applicant the degree of doctor of medicine or osteopathic medicine. With respect to applicants to practice respiratory care, the register shall show the addresses of the person's last known place of business and residence, the effective date and identification number of the license, the name and location of the institution that granted the person's degree or certificate of completion of respiratory care educational requirements, and the date the degree or certificate was issued. The books and records of the board shall be prima-facie evidence of matters therein contained.

**Sec. 4731.071.**

**Sec. 4731.141.** Any person who was authorized in practice limited osteopathic medicine and surgery on January 1, 1980, may continue to practice in accordance with the statutory limitations in effect on that date. The board shall regulate such practitioners and shall require them to register on or before the first day of June, 1983, and on or before the first day of June every second year thereafter, on a form prescribed by the board and pay at such time a biennial registration fee of twenty-five dollars. At least one month in advance of the date of registration, a written notice shall be sent to such practitioners, whether a resident of the state or not, at the last known address, that the biennial registration fee is due on or before the first day of June. All such practitioners shall provide the board written notice of any change of address. A holder of a certificate to practice under this section shall have the certificate automatically suspended if the registration fee is not paid by the first day of September of the same year, and continued practice after the suspension shall be considered as



practicing without a license in violation of section 4731.43 of the Revised Code. An applicant for reinstatement of a certificate to practice suspended for failure to register shall submit the applicant's current and delinquent registration fees and a penalty in the sum of twenty-five dollars.

Any certificate to practice issued pursuant to this section may be refused, limited, revoked, or suspended, an applicant may be denied certification or reinstatement, or the holder of a certificate may be reprimanded, or placed on probation as provided in section 4731.22 of the Revised Code.

**Sec. 4731.15.** (A) The state medical board also shall regulate the following limited branches of medicine: massage therapy and cosmetic therapy, and to the extent specified in section 4731.151 of the Revised Code, naprapathy and mechanotherapy. The board shall adopt rules governing the limited branches of medicine under its jurisdiction. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(B) A certificate to practice a limited branch of medicine issued by the state medical board is valid for a two-year period, except when an initial certificate is issued for a shorter period or when division (C)(2) of this section is applicable. The certificate may be renewed in accordance with division (C) of this section.

(C)(1) Except as provided in division (C)(2) of this section, both of the following apply with respect to the renewal of certificates to practice a limited branch of medicine:

(a) Each person seeking to renew a certificate to practice a limited branch of medicine shall apply for biennial renewal with the state medical board in a manner prescribed by the board. An applicant for renewal shall pay a biennial renewal fee of one hundred dollars.

(b) At least one month before a certificate expires, the board shall provide a renewal notice to the certificate holder.

(2) The board shall implement a staggered renewal system that is substantially similar to the staggered renewal system the board uses under division (A) of section 4731.281 of the Revised Code.

(D) All persons who hold a certificate to practice a limited branch of medicine issued by the state medical board shall provide the board notice of any change of address. The notice shall be submitted to the board not later than thirty days after the change of address.

(E) A certificate to practice a limited branch of medicine shall be automatically suspended if the certificate holder fails to renew the certificate in accordance with division (C) of this section. Continued practice after the suspension of the certificate to practice shall be considered as practicing in violation of sections 4731.34 and 4731.41 of the Revised Code.

If a certificate to practice has been suspended pursuant to this division for two years or less, it may be reinstated. The board shall reinstate the certificate upon an applicant's submission of a renewal application and payment of a reinstatement fee of one hundred twenty-five dollars. With regard to reinstatement of a certificate to practice cosmetic therapy, the applicant also shall submit with the application a certification that the number of hours of continuing education necessary to have a suspended certificate reinstated have been completed, as specified in rules the board shall adopt in accordance with Chapter 119. of the Revised Code.

If a certificate has been suspended pursuant to this division for more than two years, it may be restored. Subject to section 4731.222 of the Revised Code, the board may restore the certificate upon an applicant's submission of a restoration application and a restoration fee of one hundred fifty dollars and compliance with sections 4776.01 to 4776.04 of the Revised Code. The board shall not

restore to an applicant a certificate to practice unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a certificate issued pursuant to section 4731.17 of the Revised Code.

**Sec. 4731.22.** (A) The state medical board, by an affirmative vote of not fewer than six of its members, may limit, revoke, or suspend a license or certificate to practice or certificate to recommend, refuse to grant a license or certificate, refuse to renew a license or certificate, refuse to reinstate a license or certificate, or reprimand or place on probation the holder of a license or certificate if the individual applying for or holding the license or certificate is found by the board to have committed fraud during the administration of the examination for a license or certificate to practice or to have committed fraud, misrepresentation, or deception in applying for, renewing, or securing any license or certificate to practice or certificate to recommend issued by the board.

(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend a license or certificate to practice or certificate to recommend, refuse to issue a license or certificate, refuse to renew a license or certificate, refuse to reinstate a license or certificate, or reprimand or place on probation the holder of a license or certificate for one or more of the following reasons:

(1) Permitting one's name or one's license or certificate to practice to be used by a person, group, or corporation when the individual concerned is not actually directing the treatment given;

(2) Failure to maintain minimal standards applicable to the selection or administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease;

(3) Except as provided in section 4731.97 of the Revised Code, selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug;

(4) Willfully betraying a professional confidence.

For purposes of this division, "willfully betraying a professional confidence" does not include providing any information, documents, or reports under sections 307.621 to 307.629 of the Revised Code to a child fatality review board; does not include providing any information, documents, or reports to the director of health pursuant to guidelines established under section 3701.70 of the Revised Code; does not include written notice to a mental health professional under section 4731.62 of the Revised Code; and does not include the making of a report of an employee's use of a drug of abuse, or a report of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by section 2305.33 or 4731.62 of the Revised Code upon a physician who makes a report in accordance with section 2305.33 or notifies a mental health professional in accordance with section 4731.62 of the Revised Code. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(5) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and

surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any license or certificate to practice issued by the board.

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) A departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established;

(7) Representing, with the purpose of obtaining compensation or other advantage as personal gain or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured;

(8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;

(9) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;

(10) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;

(11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;

(12) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;

(14) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(15) Violation of the conditions of limitation placed by the board upon a license or certificate to practice;

(16) Failure to pay license renewal fees specified in this chapter;

(17) Except as authorized in section 4731.31 of the Revised Code, engaging in the division of fees for referral of patients, or the receiving of a thing of value in return for a specific referral of a patient to utilize a particular service or business;

(18) Subject to section 4731.226 of the Revised Code, violation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule. The state medical board shall obtain and keep on file current copies of the codes of ethics of the various national professional organizations. The individual whose license or certificate is being suspended or revoked shall not be found to have violated any provision of a code of ethics of an organization not appropriate to the individual's profession.

For purposes of this division, a "provision of a code of ethics of a national professional organization" does not include any provision that would preclude the making of a report by a

physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(19) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills.

In enforcing this division, the board, upon a showing of a possible violation, may compel any individual authorized to practice by this chapter or who has submitted an application pursuant to this chapter to submit to a mental examination, physical examination, including an HIV test, or both a mental and a physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an individual unable to practice because of the reasons set forth in this division, the board shall require the individual to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for initial, continued, reinstated, or renewed authority to practice. An individual affected under this division shall be afforded an opportunity to demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards under the provisions of the individual's license or certificate. For the purpose of this division, any individual who applies for or receives a license or certificate to practice under this chapter accepts the privilege of practicing in this state and, by so doing, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(20) Except as provided in division (F)(1)(b) of section 4731.282 of the Revised Code or when civil penalties are imposed under section 4731.225 of the Revised Code, and subject to section 4731.226 of the Revised Code, violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board.

This division does not apply to a violation or attempted violation of, assisting in or abetting the violation of, or a conspiracy to violate, any provision of this chapter or any rule adopted by the board that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(21) The violation of section 3701.79 of the Revised Code or of any abortion rule adopted by the director of health pursuant to section 3701.341 of the Revised Code;

(22) Any of the following actions taken by an agency responsible for authorizing, certifying, or regulating an individual to practice a health care occupation or provide health care services in this state or another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(23) The violation of section 2919.12 of the Revised Code or the performance or inducement of an abortion upon a pregnant woman with actual knowledge that the conditions specified in division (B) of section 2317.56 of the Revised Code have not been satisfied or with a heedless indifference as to whether those conditions have been satisfied, unless an affirmative defense as specified in division (H)(2) of that section would apply in a civil action authorized by division (H)(1) of that section;

(24) The revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice;

(25) Termination or suspension from participation in the medicare or medicaid programs by the department of health and human services or other responsible agency for any act or acts that also would constitute a violation of division (B)(2), (3), (6), (8), or (19) of this section;

(26) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice.

For the purposes of this division, any individual authorized to practice by this chapter accepts the privilege of practicing in this state subject to supervision by the board. By filing an application for or holding a license or certificate to practice under this chapter, an individual shall be deemed to have given consent to submit to a mental or physical examination when ordered to do so by the board in writing, and to have waived all objections to the admissibility of testimony or examination reports that constitute privileged communications.

If it has reason to believe that any individual authorized to practice by this chapter or any applicant for licensure or certification to practice suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician who is qualified to conduct the examination and who is chosen by the board.

Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's license or certificate or deny the individual's application and shall require the individual, as a condition for initial, continued, reinstated, or

renewed licensure or certification to practice, to submit to treatment.

Before being eligible to apply for reinstatement of a license or certificate suspended under this division, the impaired practitioner shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care under the provisions of the practitioner's license or certificate. The demonstration shall include, but shall not be limited to, the following:

(a) Certification from a treatment provider approved under section 4731.25 of the Revised Code that the individual has successfully completed any required inpatient treatment;

(b) Evidence of continuing full compliance with an aftercare contract or consent agreement;

(c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making the assessments and shall describe the basis for their determination.

The board may reinstate a license or certificate suspended under this division after that demonstration and after the individual has entered into a written consent agreement.

When the impaired practitioner resumes practice, the board shall require continued monitoring of the individual. The monitoring shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of perjury stating whether the individual has maintained sobriety.

(27) A second or subsequent violation of section 4731.66 or 4731.69 of the Revised Code;

(28) Except as provided in division (N) of this section:

(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the individual's services, otherwise would be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that individual;

(b) Advertising that the individual will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the individual's services, otherwise would be required to pay.

(29) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code;

(30) Failure to provide notice to, and receive acknowledgment of the notice from, a patient when required by section 4731.143 of the Revised Code prior to providing nonemergency professional services, or failure to maintain that notice in the patient's medical record;

(31) Failure of a physician supervising a physician assistant to maintain supervision in accordance with the requirements of Chapter 4730. of the Revised Code and the rules adopted under that chapter;

(32) Failure of a physician or podiatrist to enter into a standard care arrangement with a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner with whom the physician or podiatrist is in collaboration pursuant to section 4731.27 of the Revised Code or failure to fulfill the responsibilities of collaboration after entering into a standard care arrangement;

(33) Failure to comply with the terms of a consult agreement entered into with a pharmacist

pursuant to section 4729.39 of the Revised Code;

(34) Failure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board in an investigative interview, an investigative office conference, at a deposition, or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(35) Failure to supervise an oriental medicine practitioner or acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for providing that supervision;

(36) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code and the board's rules for supervision of an anesthesiologist assistant;

(37) Assisting suicide, as defined in section 3795.01 of the Revised Code;

(38) Failure to comply with the requirements of section 2317.561 of the Revised Code;

(39) Failure to supervise a radiologist assistant in accordance with Chapter 4774. of the Revised Code and the board's rules for supervision of radiologist assistants;

(40) Performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under section 3701.791 of the Revised Code;

(41) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for the operation of or the provision of care at a pain management clinic;

(42) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for providing supervision, direction, and control of individuals at a pain management clinic;

(43) Failure to comply with the requirements of section 4729.79 or 4731.055 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;

(44) Failure to comply with the requirements of section 2919.171, 2919.202, or 2919.203 of the Revised Code or failure to submit to the department of health in accordance with a court order a complete report as described in section 2919.171 or 2919.202 of the Revised Code;

(45) Practicing at a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the person operating the facility has obtained and maintains the license with the classification;

(46) Owning a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the facility is licensed with the classification;

(47) Failure to comply with the requirement regarding maintaining notes described in division (B) of section 2919.191 of the Revised Code or failure to satisfy the requirements of section 2919.191 of the Revised Code prior to performing or inducing an abortion upon a pregnant woman;

(48) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing for a minor a prescription for an opioid analgesic, as defined in section 3719.01 of the Revised Code;

(49) Failure to comply with the requirements of section 4731.30 of the Revised Code or rules adopted under section 4731.301 of the Revised Code when recommending treatment with medical marijuana;

(50) Practicing at a facility, clinic, or other location that is subject to licensure as a category III terminal distributor of dangerous drugs with an office-based opioid treatment classification unless the person operating that place has obtained and maintains the license with the classification;

(51) Owning a facility, clinic, or other location that is subject to licensure as a category III terminal distributor of dangerous drugs with an office-based opioid treatment classification unless that place is licensed with the classification.

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.

A telephone conference call may be utilized for ratification of a consent agreement that revokes or suspends an individual's license or certificate to practice or certificate to recommend. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code.

If the board takes disciplinary action against an individual under division (B) of this section for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, the disciplinary action shall consist of a suspension of the individual's license or certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's license or certificate to practice. Any consent agreement entered into under this division with an individual that pertains to a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of that section shall provide for a suspension of the individual's license or certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's license or certificate to practice.

(D) For purposes of divisions (B)(10), (12), and (14) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the individual committed the act. The board does not have jurisdiction under those divisions if the trial court renders a final judgment in the individual's favor and that judgment is based upon an adjudication on the merits. The board has jurisdiction under those divisions if the trial court issues an order of dismissal upon technical or procedural grounds.

(E) The sealing of conviction records by any court shall have no effect upon a prior board order entered under this section or upon the board's jurisdiction to take action under this section if, based upon a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing prior to the court's order to seal the records. The board shall not be required to seal, destroy, redact, or otherwise



modify its records to reflect the court's sealing of conviction records.

(F)(1) The board shall investigate evidence that appears to show that a person has violated any provision of this chapter or any rule adopted under it. Any person may report to the board in a signed writing any information that the person may have that appears to show a violation of any provision of this chapter or any rule adopted under it. In the absence of bad faith, any person who reports information of that nature or who testifies before the board in any adjudication conducted under Chapter 119. of the Revised Code shall not be liable in damages in a civil action as a result of the report or testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and shall be recorded by the board.

(2) Investigations of alleged violations of this chapter or any rule adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4731.39 of the Revised Code. The president may designate another member of the board to supervise the investigation in place of the supervising member. No member of the board who supervises the investigation of a case shall participate in further adjudication of the case.

(3) In investigating a possible violation of this chapter or any rule adopted under this chapter, or in conducting an inspection under division (E) of section 4731.054 of the Revised Code, the board may question witnesses, conduct interviews, administer oaths, order the taking of depositions, inspect and copy any books, accounts, papers, records, or documents, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary and supervising member of the board.

(a) Before issuance of a subpoena for patient record information, the secretary and supervising member shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or any rule adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

(b) On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

(c) A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence, usual place of business, or address on file with the board. When serving a subpoena to an applicant for or the holder of a license or certificate issued under this chapter, service of the subpoena may be made by certified mail, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery. If the person being served refuses to accept the subpoena or is not located, service may be made to an attorney who notifies the board that the attorney is representing the person.

(d) A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage

provided for under section 119.094 of the Revised Code.

(4) All hearings, investigations, and inspections of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code.

(5) A report required to be submitted to the board under this chapter, a complaint, or information received by the board pursuant to an investigation or pursuant to an inspection under division (E) of section 4731.054 of the Revised Code is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations or inspections and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given or, in the case of a patient, a waiver of the patient privilege exists under division (B) of section 2317.02 of the Revised Code, except that consent or a waiver of that nature is not required if the board possesses reliable and substantial evidence that no bona fide physician-patient relationship exists.

The board may share any information it receives pursuant to an investigation or inspection, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

(6) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

- (a) The case number assigned to the complaint or alleged violation;
- (b) The type of license or certificate to practice, if any, held by the individual against whom the complaint is directed;
- (c) A description of the allegations contained in the complaint;
- (d) The disposition of the case.

The report shall state how many cases are still pending and shall be prepared in a manner that protects the identity of each person involved in each case. The report shall be a public record under section 149.43 of the Revised Code.

(G) If the secretary and supervising member determine both of the following, they may recommend that the board suspend an individual's license or certificate to practice or certificate to recommend without a prior hearing:

(1) That there is clear and convincing evidence that an individual has violated division (B) of this section;

(2) That the individual's continued practice presents a danger of immediate and serious harm to the public.

Written allegations shall be prepared for consideration by the board. The board, upon review of those allegations and by an affirmative vote of not fewer than six of its members, excluding the secretary and supervising member, may suspend a license or certificate without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the summary suspension.

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the individual subject to the summary suspension requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the individual requests the hearing, unless otherwise agreed to by both the board and the individual.

Any summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within seventy-five days after completion of its hearing. A failure to issue the order within seventy-five days shall result in dissolution of the summary suspension order but shall not invalidate any subsequent, final adjudicative order.

(H) If the board takes action under division (B)(9), (11), or (13) of this section and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, upon exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. Upon receipt of a petition of that nature and supporting court documents, the board shall reinstate the individual's license or certificate to practice. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of an opportunity for a hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act or if no hearing is requested, the board may order any of the sanctions identified under division (B) of this section.

(I) The license or certificate to practice issued to an individual under this chapter and the individual's practice in this state are automatically suspended as of the date of the individual's second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code. In addition, the license or certificate to practice or certificate to recommend issued to an individual under this chapter and the individual's practice in this state are automatically suspended as of the date the individual pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual

imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after suspension shall be considered practicing without a license or certificate.

The board shall notify the individual subject to the suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose license or certificate is automatically suspended under this division fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the board shall do whichever of the following is applicable:

(1) If the automatic suspension under this division is for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, the board shall enter an order suspending the individual's license or certificate to practice for a period of at least one year or, if determined appropriate by the board, imposing a more serious sanction involving the individual's license or certificate to practice.

(2) In all circumstances in which division (I)(1) of this section does not apply, enter a final order permanently revoking the individual's license or certificate to practice.

(J) If the board is required by Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and if the individual subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In that final order, the board may order any of the sanctions identified under division (A) or (B) of this section.

(K) Any action taken by the board under division (B) of this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the individual's license or certificate to practice may be reinstated. The board shall adopt rules governing conditions to be imposed for reinstatement. Reinstatement of a license or certificate suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board.

(L) When the board refuses to grant or issue a license or certificate to practice to an applicant, revokes an individual's license or certificate to practice, refuses to renew an individual's license or certificate to practice, or refuses to reinstate an individual's license or certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a license or certificate to practice and the board shall not accept an application for reinstatement of the license or certificate or for issuance of a new license or certificate.

(M) Notwithstanding any other provision of the Revised Code, all of the following apply:

(1) The surrender of a license or certificate issued under this chapter shall not be effective unless or until accepted by the board. A telephone conference call may be utilized for acceptance of the surrender of an individual's license or certificate to practice. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code. Reinstatement of a license or certificate surrendered to the board requires an affirmative vote of not fewer than six members of the board.

(2) An application for a license or certificate made under the provisions of this chapter may not be withdrawn without approval of the board.

(3) Failure by an individual to renew a license or certificate to practice in accordance with

this chapter or a certificate to recommend in accordance with rules adopted under section 4731.301 of the Revised Code shall not remove or limit the board's jurisdiction to take any disciplinary action under this section against the individual.

(4) At the request of the board, a license or certificate holder shall immediately surrender to the board a license or certificate that the board has suspended, revoked, or permanently revoked.

(N) Sanctions shall not be imposed under division (B)(28) of this section against any person who waives deductibles and copayments as follows:

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request.

(2) For professional services rendered to any other person authorized to practice pursuant to this chapter, to the extent allowed by this chapter and rules adopted by the board.

(O) Under the board's investigative duties described in this section and subject to division (F) of this section, the board shall develop and implement a quality intervention program designed to improve through remedial education the clinical and communication skills of individuals authorized under this chapter to practice medicine and surgery, osteopathic medicine and surgery, and podiatric medicine and surgery. In developing and implementing the quality intervention program, the board may do all of the following:

(1) Offer in appropriate cases as determined by the board an educational and assessment program pursuant to an investigation the board conducts under this section;

(2) Select providers of educational and assessment services, including a quality intervention program panel of case reviewers;

(3) Make referrals to educational and assessment service providers and approve individual educational programs recommended by those providers. The board shall monitor the progress of each individual undertaking a recommended individual educational program.

(4) Determine what constitutes successful completion of an individual educational program and require further monitoring of the individual who completed the program or other action that the board determines to be appropriate;

(5) Adopt rules in accordance with Chapter 119. of the Revised Code to further implement the quality intervention program.

An individual who participates in an individual educational program pursuant to this division shall pay the financial obligations arising from that educational program.

**Sec. 4731.222.** (A) This section applies to both of the following:

(1) An applicant seeking restoration of a license or certificate issued under this chapter that has been in a suspended or inactive state for any cause for more than two years;

(2) An applicant seeking issuance of a license or certificate pursuant to section 4731.17 or 4731.295 of the Revised Code who for more than two years has not been engaged in the practice of medicine and surgery, osteopathic medicine and surgery, or a limited branch of medicine as any of the following:

(a) An active practitioner;

(b) A participant in a program of graduate medical education, as defined in section 4731.04 of

the Revised Code;

(c) A student in a college of podiatry determined by the state medical board to be in good standing;

(d) A student in a school, college, or institution giving instruction in a limited branch of medicine determined by the board to be in good standing under section 4731.16 of the Revised Code.

(B) Before restoring a license or certificate to good standing for or issuing a license or certificate to an applicant subject to this section, the state medical board may impose terms and conditions including any one or more of the following:

(1) Requiring the applicant to pass an oral or written examination, or both, to determine the applicant's present fitness to resume practice;

(2) Requiring the applicant to obtain additional training and to pass an examination upon completion of such training;

(3) Requiring an assessment of the applicant's physical skills for purposes of determining whether the applicant's coordination, fine motor skills, and dexterity are sufficient for performing medical evaluations and procedures in a manner that meets the minimal standards of care;

(4) Requiring an assessment of the applicant's skills in recognizing and understanding diseases and conditions;

(5) Requiring the applicant to undergo a comprehensive physical examination, which may include an assessment of physical abilities, evaluation of sensory capabilities, or screening for the presence of neurological disorders;

(6) Restricting or limiting the extent, scope, or type of practice of the applicant.

The board shall consider the moral background and the activities of the applicant during the period of suspension or inactivity, in accordance with section 4731.09, 4731.19, or 4731.52 of the Revised Code. The board shall not restore a license or certificate under this section unless the applicant complies with sections 4776.01 to 4776.04 of the Revised Code.

**Sec. 4731.225.** (A) If the holder of a license or certificate issued under this chapter violates division (A), (B), or (C) of section 4731.66 or section 4731.69 of the Revised Code, or if any other person violates division (B) or (C) of section 4731.66 or section 4731.69 of the Revised Code, the state medical board, pursuant to an adjudication under Chapter 119. of the Revised Code and an affirmative vote of not fewer than six of its members, shall:

(1) For a first violation, impose a civil penalty of not more than five thousand dollars;

(2) For each subsequent violation, impose a civil penalty of not more than twenty thousand dollars and, if the violator is a license or certificate holder, proceed under division (B)(27) of section 4731.22 of the Revised Code.

(B)(1) If the holder of a license or certificate issued under this chapter violates any section of this chapter other than section 4731.281 or 4731.282 of the Revised Code or the sections specified in division (A) of this section, or violates any rule adopted under this chapter, the board may, pursuant to an adjudication under Chapter 119. of the Revised Code and an affirmative vote of not fewer than six of its members, impose a civil penalty. The amount of the civil penalty shall be determined by the board in accordance with the guidelines adopted under division (B)(2) of this section. The civil penalty may be in addition to any other action the board may take under section 4731.22 of the Revised Code.

(2) The board shall adopt and may amend guidelines regarding the amounts of civil penalties to be imposed under this section. Adoption or amendment of the guidelines requires the approval of not fewer than six board members.

Under the guidelines, no civil penalty amount shall exceed twenty thousand dollars.

(C) Amounts received from payment of civil penalties imposed under this section shall be deposited by the board in accordance with section 4731.24 of the Revised Code. Amounts received from payment of civil penalties imposed for violations of division (B)(26) of section 4731.22 of the Revised Code shall be used by the board solely for investigations, enforcement, and compliance monitoring.

**Sec. 4731.24.** Except as provided in sections 4731.281 and 4731.40 of the Revised Code, all receipts of the state medical board, from any source, shall be deposited in the state treasury. The funds shall be deposited to the credit of the state medical board operating fund, which is hereby created. Except as provided in sections 4730.252, 4731.225, 4731.24, 4759.071, 4760.133, 4761.091, 4762.133, 4774.133, and 4778.141 of the Revised Code, all funds deposited into the state treasury under this section shall be used solely for the administration and enforcement of this chapter and Chapters 4730., 4759., 4760., 4761., 4762., 4774., and 4778. of the Revised Code by the board.

**Sec. 4731.26.** Upon application by the holder of a license or certificate to practice issued under this chapter, the state medical board shall issue a duplicate license or certificate to replace one missing or damaged, to reflect a name change, or for any other reasonable cause. The fee for a duplicate license or certificate to practice shall be thirty-five dollars.

**Sec. 4731.281.** (A)(1) Each person holding a license issued under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery wishing to renew that license shall apply to the board for renewal. Applications shall be submitted to the board in a manner prescribed by the board. Each application shall be accompanied by a biennial renewal fee of three hundred five dollars. Applications shall be submitted according to the following schedule:

(a) Persons whose last name begins with the letters "A" through "B," on or before the first day of July of every odd-numbered year;

(b) Persons whose last name begins with the letters "C" through "D," on or before the first day of April of every odd-numbered year;

(c) Persons whose last name begins with the letters "E" through "G," on or before the first day of January of every odd-numbered year;

(d) Persons whose last name begins with the letters "H" through "K," on or before the first day of October of every even-numbered year;

(e) Persons whose last name begins with the letters "L" through "M," on or before the first day of July of every even-numbered year;

(f) Persons whose last name begins with the letters "N" through "R," on or before the first day of April of every even-numbered year;

(g) Persons whose last name begins with the letter "S," on or before the first day of January of every even-numbered year;

(h) Persons whose last name begins with the letters "T" through "Z," on or before the first day of October of every odd-numbered year.

The board shall deposit the fee in accordance with section 4731.24 of the Revised Code, except that the board shall deposit twenty dollars of the fee into the state treasury to the credit of the physician loan repayment fund created by section 3702.78 of the Revised Code.

(2) The board shall provide to every person holding a license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, a renewal notice or may provide the notice to the person through the secretary of any recognized medical, osteopathic, or podiatric society. The notice shall be provided to the person at least one month prior to the date on which the person's license expires.

(3) Failure of any person to receive a notice of renewal from the board shall not excuse the person from the requirements contained in this section.

(4) The board's notice shall inform the applicant of the renewal procedure. The board shall provide the application for renewal in a form determined by the board.

(5) The applicant shall provide in the application the applicant's full name; the applicant's residence address, business address, and electronic mail address; the number of the applicant's license to practice; and any other information required by the board.

(6)(a) Except as provided in division (A)(6)(b) of this section, in the case of an applicant who prescribes or personally furnishes opioid analgesics or benzodiazepines, as defined in section 3719.01 of the Revised Code, the applicant shall certify to the board whether the applicant has been granted access to the drug database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code.

(b) The requirement in division (A)(6)(a) of this section does not apply if any of the following is the case:

(i) The state board of pharmacy notifies the state medical board pursuant to section 4729.861 of the Revised Code that the applicant has been restricted from obtaining further information from the drug database.

(ii) The state board of pharmacy no longer maintains the drug database.

(iii) The applicant does not practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery in this state.

(c) If an applicant certifies to the state medical board that the applicant has been granted access to the drug database and the board finds through an audit or other means that the applicant has not been granted access, the board may take action under section 4731.22 of the Revised Code.

(7) The applicant shall indicate whether the applicant currently collaborates, as that term is defined in section 4723.01 of the Revised Code, with any clinical nurse specialists, certified nurse-midwives, or certified nurse practitioners.

(8) The applicant shall report any criminal offense to which the applicant has pleaded guilty, of which the applicant has been found guilty, or for which the applicant has been found eligible for intervention in lieu of conviction, since last submitting an application for a license to practice or renewal of a license.

(9) The applicant shall execute and deliver the application to the board in a manner prescribed by the board.

(B) The board shall renew a license under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery upon application and



qualification therefor in accordance with this section. A renewal shall be valid for a two-year period.

(C) Failure of any license holder to renew and comply with this section shall operate automatically to suspend the holder's license to practice and if applicable, the holder's certificate to recommend issued under section 4731.30 of the Revised Code. Continued practice after the suspension shall be considered as practicing in violation of section 4731.41, 4731.43, or 4731.60 of the Revised Code.

If the license has been suspended pursuant to this division for two years or less, it may be reinstated. The board shall reinstate a license to practice suspended for failure to renew upon an applicant's submission of a renewal application and payment of a reinstatement fee of four hundred five dollars.

If the license has been suspended pursuant to this division for more than two years, it may be restored. Subject to section 4731.222 of the Revised Code, the board may restore a license to practice suspended for failure to renew upon an applicant's submission of a restoration application, payment of a restoration fee of five hundred five dollars, and compliance with sections 4776.01 to 4776.04 of the Revised Code. The board shall not restore to an applicant a license to practice unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a license issued pursuant to section 4731.14 or 4731.56 of the Revised Code. Any reinstatement or restoration of a license to practice under this section shall operate automatically to renew the holder's certificate to recommend.

(D) The state medical board may obtain information not protected by statutory or common law privilege from courts and other sources concerning malpractice claims against any person holding a license to practice under this chapter or practicing as provided in section 4731.36 of the Revised Code.

(E) Each mailing sent by the board under division (A)(2) of this section to a person holding a license to practice medicine and surgery or osteopathic medicine and surgery shall inform the applicant of the reporting requirement established by division (H) of section 3701.79 of the Revised Code. At the discretion of the board, the information may be included on the application for renewal or on an accompanying page.

(F) Each person holding a license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery shall give notice to the board of a change in the license holder's residence address, business address, or electronic mail address not later than thirty days after the change occurs.

**Sec. 4731.282.** (A)(1) Except as provided in division (D) of this section, each person holding a license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery issued by the state medical board shall complete biennially not less than one hundred hours of continuing medical education that has been approved by the board.

(2) Each person holding a license to practice shall be given sufficient choice of continuing education programs to ensure that the person has had a reasonable opportunity to participate in continuing education programs that are relevant to the person's medical practice in terms of subject matter and level.

(B) In determining whether a course, program, or activity qualifies for credit as continuing medical education, the board shall approve all of the following:

(1) Continuing medical education completed by holders of licenses to practice medicine and surgery that is certified by the Ohio state medical association;

(2) Continuing medical education completed by holders of licenses to practice osteopathic medicine and surgery that is certified by the Ohio osteopathic association;

(3) Continuing medical education completed by holders of licenses to practice podiatric medicine and surgery that is certified by the Ohio podiatric medical association.

(C) The board shall approve one or more continuing medical education courses of study included within the programs certified by the Ohio state medical association and the Ohio osteopathic association under divisions (B)(1) and (2) of this section that assist doctors of medicine and doctors of osteopathic medicine in both of the following:

(1) Recognizing the signs of domestic violence and its relationship to child abuse;

(2) Diagnosing and treating chronic pain, as defined in section 4731.052 of the Revised Code.

(D) The board shall adopt rules providing for pro rata reductions by month of the number of hours of continuing education that must be completed for license holders who are in their first renewal period, have been disabled by illness or accident, or have been absent from the country. The board shall adopt the rules in accordance with Chapter 119. of the Revised Code.

(E) The board may require a random sample of holders of licenses to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery to submit materials documenting completion of the required number of hours of continuing medical education. This division does not limit the board's authority to conduct investigations pursuant to section 4731.22 of the Revised Code.

(F)(1) If, through a random sample conducted under division (E) of this section or any other means, the board finds that an individual who certified completion of the number of hours and type of continuing medical education required to renew, reinstate, or restore a license to practice did not complete the requisite continuing medical education, the board may do either of the following:

(a) Take disciplinary action against the individual under section 4731.22 of the Revised Code,; impose a civil penalty, or both;

(b) Permit the individual to agree in writing to complete the continuing medical education and pay a civil penalty.

(2) The board's finding in any disciplinary action taken under division (F)(1)(a) of this section shall be made pursuant to an adjudication under Chapter 119. of the Revised Code and by an affirmative vote of not fewer than six of its members.

(3) A civil penalty paid under division (F)(1)(b) of this section or imposed under division (F)(1)(a) of this section shall be in an amount specified by the board of not more than five thousand dollars. The board shall deposit civil penalties in accordance with section 4731.24 of the Revised Code.

**Sec. 4731.293.** (A) The state medical board may issue, without examination, a clinical research faculty certificate to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery to any person who applies for the certificate and provides to the board all of the following:

(1) Evidence satisfactory to the board of all of the following:

(a) That the applicant holds a current, unrestricted license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery issued by another state or country;

(b) That the applicant has been appointed to serve in this state on the academic staff of a medical school accredited by the liaison committee on medical education, an osteopathic medical school accredited by the American osteopathic association, or a college of podiatric medicine and surgery in good standing with the board;

(c) That the applicant is an international medical graduate who holds a medical degree from an educational institution listed in the international medical education directory.

(2) An affidavit and supporting documentation from the dean of the school or college, or the department director or chairperson of a teaching hospital affiliated with the school or college, that the applicant is qualified to perform teaching and research activities and will be permitted to work only under the authority of the department director or chairperson of a teaching hospital affiliated with the school or college where the applicant's teaching and research activities will occur;

(3) A description from the school, college, or teaching hospital of the scope of practice in which the applicant will be involved, including the types of teaching, research, and procedures in which the applicant will be engaged;

(4) A description from the school, college, or teaching hospital of the type and amount of patient contact that will occur in connection with the applicant's teaching and research activities.

(B) An applicant for an initial clinical research faculty certificate shall pay a fee of three hundred seventy-five dollars.

(C) The holder of a clinical research faculty certificate may do one of the following, as applicable:

(1) Practice medicine and surgery or osteopathic medicine and surgery only as is incidental to the certificate holder's teaching or research duties at the medical school or a teaching hospital affiliated with the school;

(2) Practice podiatric medicine and surgery only as is incidental to the certificate holder's teaching or research duties at the college of podiatric medicine and surgery or a teaching hospital affiliated with the college.

(D) The board may revoke a certificate on receiving proof satisfactory to the board that the certificate holder has engaged in practice in this state outside the scope of the certificate or that there are grounds for action against the certificate holder under section 4731.22 of the Revised Code.

(E) A clinical research faculty certificate is valid for three years, except that the certificate ceases to be valid if the holder's academic staff appointment described in division (A)(1)(b) of this section is no longer valid or the certificate is revoked pursuant to division (D) of this section.

(F)(1) The board shall provide a renewal notice to the certificate holder at least one month before the certificate expires. Failure of a certificate holder to receive a notice of renewal from the board shall not excuse the certificate holder from the requirements contained in this section. The notice shall inform the certificate holder of the renewal procedure. The notice also shall inform the certificate holder of the reporting requirement established by division (H) of section 3701.79 of the Revised Code. At the discretion of the board, the information may be included on the application for renewal or on an accompanying page.

(2) A clinical research faculty certificate may be renewed for an additional three-year period. There is no limit on the number of times a certificate may be renewed. A person seeking renewal of a certificate shall apply to the board. The board shall provide the application for renewal in a form determined by the board.

(3) An applicant is eligible for renewal if the applicant does all of the following:

(a) Pays a renewal fee of three hundred seventy-five dollars;

(b) Reports any criminal offense to which the applicant has pleaded guilty, of which the applicant has been found guilty, or for which the applicant has been found eligible for intervention in lieu of conviction, since last filing an application for a clinical research faculty certificate;

(c) Provides to the board an affidavit and supporting documentation from the dean of the school or college, or the department director or chairperson of a teaching hospital affiliated with the school or college, that the applicant is in compliance with the applicant's current clinical research faculty certificate;

(d) Provides evidence satisfactory to the board of all of the following:

(i) That the applicant continues to maintain a current, unrestricted license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery issued by another state or country;

(ii) That the applicant's initial appointment to serve in this state on the academic staff of a school or college is still valid or has been renewed;

(iii) That the applicant has completed one hundred fifty hours of continuing medical education that meet the requirements set forth in section 4731.282 of the Revised Code.

(4) Regardless of whether the certificate has expired, a person who was granted a visiting medical faculty certificate under this section as it existed immediately prior to June 6, 2012, may apply for a clinical research faculty certificate as a renewal. The board may issue the clinical research faculty certificate if the applicant meets the requirements of division (F)(3) of this section. The board may not issue a clinical research faculty certificate if the visiting medical faculty certificate was revoked.

(G) The board shall maintain a register of all persons who hold clinical research faculty certificates.

(H) The board may adopt any rules it considers necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

**Sec. 4731.295.** (A)(1) As used in this section:

(a) "Free clinic" has the same meaning as in section 3701.071 of the Revised Code.

(b) "Indigent and uninsured person" and "operation" have the same meanings as in section 2305.234 of the Revised Code.

(2) For the purposes of this section, a person shall be considered retired from practice if the person's license has expired with the person's intention of ceasing to practice medicine and surgery or osteopathic medicine and surgery for remuneration.

(B) The state medical board may issue, without examination, a volunteer's certificate to a person who is retired from practice so that the person may provide medical services to indigent and uninsured persons at any location, including a free clinic. The board shall deny issuance of a volunteer's certificate to a person who is not qualified under this section to hold a volunteer's

certificate.

(C) An application for a volunteer's certificate shall include all of the following:

(1) A copy of the applicant's degree of medicine or osteopathic medicine.

(2) One of the following, as applicable:

(a) A copy of the applicant's most recent license authorizing the practice of medicine and surgery or osteopathic medicine and surgery issued by a jurisdiction in the United States that licenses persons to practice medicine and surgery or osteopathic medicine and surgery.

(b) A copy of the applicant's most recent license equivalent to a license to practice medicine and surgery or osteopathic medicine and surgery in one or more branches of the United States armed services that the United States government issued.

(3) Evidence of one of the following, as applicable:

(a) That the applicant has maintained for at least ten years prior to retirement full licensure in good standing in any jurisdiction in the United States that licenses persons to practice medicine and surgery or osteopathic medicine and surgery.

(b) That the applicant has practiced for at least ten years prior to retirement in good standing as a doctor of medicine and surgery or osteopathic medicine and surgery in one or more of the branches of the United States armed services.

(4) A notarized statement from the applicant, on a form prescribed by the board, that the applicant will not accept any form of remuneration for any medical services rendered while in possession of a volunteer's certificate.

(D) The holder of a volunteer's certificate may provide medical services only to indigent and uninsured persons, but may do so at any location, including a free clinic. The holder shall not accept any form of remuneration for providing medical services while in possession of the certificate. Except in a medical emergency, the holder shall not perform any operation or deliver babies. The board may revoke a volunteer's certificate on receiving proof satisfactory to the board that the holder has engaged in practice in this state outside the scope of the certificate.

(E)(1) A volunteer's certificate shall be valid for a period of three years, unless earlier revoked under division (D) of this section or pursuant to section 4731.22 of the Revised Code. A volunteer's certificate may be renewed upon the application of the holder. The board shall maintain a register of all persons who hold volunteer's certificates. The board shall not charge a fee for issuing or renewing a certificate pursuant to this section.

(2) To be eligible for renewal of a volunteer's certificate the holder of the certificate shall certify to the board completion of one hundred fifty hours of continuing medical education that meets the requirements of section 4731.282 of the Revised Code regarding certification by private associations and approval by the board. The board may not renew a certificate if the holder has not complied with the continuing medical education requirements. Any entity for which the holder provides medical services may pay for or reimburse the holder for any costs incurred in obtaining the required continuing medical education credits.

(3) The board shall issue a volunteer's certificate to each person who qualifies under this section for the certificate. The certificate shall state that the certificate holder is authorized to provide medical services pursuant to the laws of this state. The holder shall display the certificate prominently at the location where the holder primarily practices.

(4) The holder of a volunteer's certificate issued pursuant to this section is subject to the immunity provisions regarding the provision of services to indigent and uninsured persons in section 2305.234 of the Revised Code.

(F) The board shall adopt rules in accordance with Chapter 119. of the Revised Code to administer and enforce this section.

**Sec. 4731.296.** (A) For the purposes of this section, "the practice of telemedicine" means the practice of medicine in this state through the use of any communication, including oral, written, or electronic communication, by a physician located outside this state.

(B) A person who wishes to practice telemedicine in this state shall file an application with the state medical board, together with a fee of three hundred five dollars and shall comply with sections 4776.01 to 4776.04 of the Revised Code. If the board, in its discretion, decides that the results of the criminal records check do not make the person ineligible for a telemedicine certificate, the board may issue, without examination, a telemedicine certificate to a person who meets all of the following requirements:

(1) The person holds a current, unrestricted license to practice medicine and surgery or osteopathic medicine and surgery issued by another state that requires license holders to complete at least fifty hours of continuing medical education every two years.

(2) The person's principal place of practice is in that state.

(3) The person does not hold a license issued under this chapter authorizing the practice of medicine and surgery or osteopathic medicine and surgery in this state.

(4) The person meets the same age, moral character, and educational requirements individuals must meet under sections 4731.09 and 4731.14 of the Revised Code and, if applicable, demonstrates proficiency in spoken English in accordance with section 4731.142 of the Revised Code.

(C) The holder of a telemedicine certificate may engage in the practice of telemedicine in this state. A person holding a telemedicine certificate shall not practice medicine in person in this state without obtaining a special activity certificate under section 4731.294 of the Revised Code.

(D) The board may revoke a certificate issued under this section or take other disciplinary action against a certificate holder pursuant to section 4731.22 of the Revised Code on receiving proof satisfactory to the board that the certificate holder has engaged in practice in this state outside the scope of the certificate or that there are grounds for action against the holder under section 4731.22 of the Revised Code.

(E) A telemedicine certificate shall be valid for a period specified by the board, and the initial renewal shall be in accordance with a schedule established by the board. Thereafter, the certificate shall be valid for two years. A certificate may be renewed on application of the holder.

To be eligible for renewal, the holder of the certificate shall do both of the following:

(1) Pay a fee in the amount of the fee described in division (A)(1) of section 4731.281 of the Revised Code;

(2) Certify to the board compliance with the continuing medical education requirements of the state in which the holder's principal place of practice is located.

The board may require a random sample of persons holding a telemedicine certificate to submit materials documenting completion of the continuing medical education requirements described in this division.

(F) The board shall convert a telemedicine certificate to a license issued under section 4731.14 of the Revised Code on receipt of a written request from the certificate holder. Once the telemedicine certificate is converted, the holder is subject to all requirements and privileges attendant to a license issued under section 4731.14 of the Revised Code, including continuing medical education requirements.

**Sec. 4731.297.** (A) As used in this section:

(1) "Academic medical center" means a medical school and its affiliated teaching hospitals and clinics partnering to do all of the following:

(a) Provide the highest quality of patient care from expert physicians;

(b) Conduct groundbreaking research leading to medical advancements for current and future patients;

(c) Provide medical education and graduate medical education to educate and train physicians.

(2) "Affiliated physician group practice" means a medical practice that consists of one or more physicians authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery and that is affiliated with an academic medical center to further the objectives described in divisions (A)(1)(a) to (c) of this section.

(B) The state medical board shall issue, without examination, to an applicant who meets the requirements of this section a certificate of conceded eminence authorizing the practice of medicine and surgery or osteopathic medicine and surgery as part of the applicant's employment with an academic medical center in this state or affiliated physician group practice in this state.

(C) To be eligible for a certificate of conceded eminence, an applicant shall provide to the board all of the following:

(1) Evidence satisfactory to the board of all of the following:

(a) That the applicant is an international medical graduate who holds a medical degree from an educational institution listed in the international medical education directory;

(b) That the applicant has been appointed to serve in this state as a full-time faculty member of a medical school accredited by the liaison committee on medical education or an osteopathic medical school accredited by the American osteopathic association;

(c) That the applicant has accepted an offer of employment with an academic medical center in this state or affiliated physician group practice in this state;

(d) That the applicant holds a license in good standing in another state or country authorizing the practice of medicine and surgery or osteopathic medicine and surgery;

(e) That the applicant has unique talents and extraordinary abilities not generally found within the applicant's specialty, as demonstrated by satisfying at least four of the following:

(i) The applicant has achieved educational qualifications beyond those that are required for entry into the applicant's specialty, including advanced degrees, special certifications, or other academic credentials.

(ii) The applicant has written multiple articles in journals listed in the index medicus or an equivalent scholarly publication acceptable to the board.

(iii) The applicant has a sustained record of excellence in original research, at least some of which involves serving as the principal investigator or co-principal investigator for a research

project.

(iv) The applicant has received nationally or internationally recognized prizes or awards for excellence.

(v) The applicant has participated in peer review in a field of specialization that is the same as or similar to the applicant's specialty.

(vi) The applicant has developed new procedures or treatments for complex medical problems that are recognized by peers as a significant advancement in the applicable field of medicine.

(vii) The applicant has held previous academic appointments with or been employed by a health care organization that has a distinguished national or international reputation.

(viii) The applicant has been the recipient of a national institutes of health or other competitive grant award.

(f) That the applicant has received staff membership or professional privileges from the academic medical center pursuant to standards adopted under section 3701.351 of the Revised Code on a basis that requires the applicant's medical education and graduate medical education to be at least equivalent to that of a physician educated and trained in the United States;

(g) That the applicant has sufficient written and oral English skills to communicate effectively and reliably with patients, their families, and other medical professionals;

(h) That the applicant will have professional liability insurance through the applicant's employment with the academic medical center or affiliated physician group practice.

(2) An affidavit from the applicant agreeing to practice only within the clinical setting of the academic medical center or for the affiliated physician group practice;

(3) Three letters of reference from distinguished experts in the applicant's specialty attesting to the unique capabilities of the applicant, at least one of which must be from outside the academic medical center or affiliated physician group practice;

(4) An affidavit from the dean of the medical school where the applicant has been appointed to serve as a faculty member stating that the applicant meets all of the requirements of division (C)(1) of this section and that the letters of reference submitted under division (C)(3) of this section are from distinguished experts in the applicant's specialty, and documentation to support the affidavit;

(5) A fee of one thousand dollars for the certificate.

(D)(1) The holder of a certificate of conceded eminence may practice medicine and surgery or osteopathic medicine and surgery only within the clinical setting of the academic medical center with which the certificate holder is employed or for the affiliated physician group practice with which the certificate holder is employed.

(2) A certificate holder may supervise medical students, physicians participating in graduate medical education, advanced practice nurses, and physician assistants when performing clinical services in the certificate holder's area of specialty.

(E) The board may revoke a certificate issued under this section on receiving proof satisfactory to the board that the certificate holder has engaged in practice in this state outside the scope of the certificate or that there are grounds for action against the certificate holder under section 4731.22 of the Revised Code.

(F) A certificate of conceded eminence is valid for the shorter of two years or the duration of



the certificate holder's employment with the academic medical center or affiliated physician group practice. The certificate ceases to be valid if the holder resigns or is otherwise terminated from the academic medical center or affiliated physician group practice.

(G) A certificate of conceded eminence may be renewed for an additional two-year period. There is no limit on the number of times a certificate may be renewed. A person seeking renewal of a certificate shall apply to the board and is eligible for renewal if the applicant does all of the following:

- (1) Pays the renewal fee of one thousand dollars;
- (2) Provides to the board an affidavit and supporting documentation from the academic medical center or affiliated physician group practice of all of the following:
  - (a) That the applicant's initial appointment to the medical faculty is still valid or has been renewed;
  - (b) That the applicant's clinical practice is consistent with the established standards in the field;
  - (c) That the applicant has demonstrated continued scholarly achievement;
  - (d) That the applicant has demonstrated continued professional achievement consistent with the academic medical center's requirements, established pursuant to standards adopted under section 3701.351 of the Revised Code, for physicians with staff membership or professional privileges with the academic medical center.

(3) Satisfies the same continuing medical education requirements set forth in section 4731.282 of the Revised Code that apply to a person who holds a certificate to practice medicine and surgery or osteopathic medicine and surgery issued under this chapter.

(4) Complies with any other requirements established by the board.

(H) The board may adopt any rules it considers necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

**Sec. 4731.299.** (A) The state medical board may issue, without examination, to an applicant who meets all of the requirements of this section an expedited license to practice medicine and surgery or osteopathic medicine and surgery by endorsement.

(B) An individual who seeks an expedited license by endorsement shall file with the board a written application on a form prescribed and supplied by the board. The application shall include all of the information the board considers necessary to process it.

(C) To be eligible to receive an expedited license by endorsement, an applicant shall do both of the following:

- (1) Provide evidence satisfactory to the board that the applicant meets all of the following requirements:
  - (a) Has passed one of the following:
    - (i) Steps one, two, and three of the United States medical licensing examination;
    - (ii) Levels one, two, and three of the comprehensive osteopathic medical licensing examination of the United States;
    - (iii) Any other medical licensing examination recognized by the board.
  - (b) For at least five years immediately preceding the date of application, has held a current, unrestricted license to practice medicine and surgery or osteopathic medicine and surgery issued by

the licensing authority of another state or a Canadian province;

(c) For at least two years immediately preceding the date of application, has actively practiced medicine and surgery or osteopathic medicine and surgery in a clinical setting;

(d) Is in compliance with the medical education and training requirements in sections 4731.09 and 4731.14 of the Revised Code.

(2) Certify to the board that all of the following are the case:

(a) Not more than two malpractice claims have been filed against the applicant within a period of ten years and no malpractice claim against the applicant has resulted in total payment of more than five hundred thousand dollars.

(b) The applicant does not have a criminal record according to the criminal records check required by section 4731.08 of the Revised Code.

(c) The applicant does not have a medical condition that could affect the applicant's ability to practice according to acceptable and prevailing standards of care.

(d) No adverse action has been taken against the applicant by a health care institution.

(e) To the applicant's knowledge, no federal agency, medical society, medical association, or branch of the United States military has investigated or taken action against the applicant.

(f) No professional licensing or regulatory authority has filed a complaint against, investigated, or taken action against the applicant and the applicant has not withdrawn a professional license application.

(g) The applicant has not been suspended or expelled from any institution of higher education or school, including a medical school.

(D) An applicant for an expedited license by endorsement shall comply with section 4731.08 of the Revised Code.

(E) At the time of application, the applicant shall pay to the board a fee of one thousand dollars, no part of which shall be returned. No application shall be considered filed until the board receives the fee.

(F) The secretary and supervising member of the board shall review all applications received under this section.

If the secretary and supervising member determine that an applicant meets the requirements for an expedited license by endorsement, the board shall issue the license to the applicant.

If the secretary and supervising member determine that an applicant does not meet the requirements for an expedited license by endorsement, the application shall be treated as an application under section 4731.09 of the Revised Code.

(G) Each license issued by the board under this section shall be signed by the president and secretary of the board and attested by the board's seal.

(H) Within sixty days after September 29, 2013, the board shall approve acceptable means of demonstrating compliance with sections 4731.09 and 4731.14 of the Revised Code as required by division (C)(1)(d) of this section.

**Sec. 4731.41.** (A) No person shall practice medicine and surgery, or any of its branches, without the appropriate license or certificate from the state medical board to engage in the practice. No person shall advertise or claim to the public to be a practitioner of medicine and surgery, or any of its branches, without a license or certificate from the board. No person shall open or conduct an

office or other place for such practice without a license or certificate from the board. No person shall conduct an office in the name of some person who has a license or certificate to practice medicine and surgery, or any of its branches. No person shall practice medicine and surgery, or any of its branches, after the person's license or certificate has been revoked, or, if suspended, during the time of such suspension.

A license or certificate signed by the secretary of the board to which is affixed the official seal of the board to the effect that it appears from the records of the board that no such license or certificate to practice medicine and surgery, or any of its branches, in this state has been issued to the person specified therein, or that a license or certificate to practice, if issued, has been revoked or suspended, shall be received as prima-facie evidence of the record of the board in any court or before any officer of the state.

(B) No license or certificate from the state medical board is required by a physician who comes into this state to practice medicine at a free-of-charge camp accredited by the SeriousFun children's network that specializes in providing therapeutic recreation, as defined in section 2305.231 of the Revised Code, for individuals with chronic illnesses as long as all of the following apply:

(1) The physician provides documentation to the medical director of the camp that the physician is licensed and in good standing to practice medicine in another state;

(2) The physician provides services only at the camp or in connection with camp events or camp activities that occur off the grounds of the camp;

(3) The physician receives no compensation for the services;

(4) The physician provides those services within this state for not more than thirty days per calendar year;

(5) The camp has a medical director who holds an unrestricted license to practice medicine issued in accordance with division (A) of this section.

**Sec. 4731.62.**

**Sec. 4731.74.**

**Sec. 4732.10.** (A) The state board of psychology shall appoint an entrance examiner who shall determine the sufficiency of an applicant's qualifications for admission to the appropriate examination. A member of the board or the executive director may be appointed as the entrance examiner.

(B) Requirements for admission to examination for a psychologist license shall be that the applicant:

(1) Is at least twenty-one years of age;

(2) Is of good moral character;

(3) Meets one of the following requirements:

(a) Received an earned doctoral degree from an institution accredited or recognized by a national or regional accrediting agency and a program accredited by any of the following:

(i) The American psychological association, office of program consultation and accreditation;

(ii) The accreditation office of the Canadian psychological association;

(iii) A program listed by the association of state and provincial psychology boards/national register designation committee;

(iv) The national association of school psychologists.

(b) Received an earned doctoral degree in psychology or school psychology from an institution accredited or recognized by a national or regional accrediting agency but the program does not meet the program accreditation requirements of division (B)(3)(a) of this section;

(c) Received from an academic institution outside of the United States or Canada a degree determined, under rules adopted by the board under division (E) of this section, to be equivalent to a doctoral degree in psychology from a program described in division (B)(3)(a) of this section;

(d) Held a psychologist license, certificate, or registration required for practice in another United States or Canadian jurisdiction for a minimum of ten years and meets educational, experience, and professional requirements established under rules adopted by the board.

(4) Has had at least two years of supervised professional experience in psychological work of a type satisfactory to the board, at least one year of which must be a predoctoral internship. The board shall adopt guidelines for the kind of supervised professional experience that fulfill this requirement.

(5) If applying under division (B)(3)(b) or (c) of this section, has had at least two years of supervised professional experience in psychological work of a type satisfactory to the board, at least one year of which must be postdoctoral. The board shall adopt guidelines for the kind of supervised professional experience that fulfill this requirement.

(C) Requirements for admission to examination for a school psychologist license shall be that the applicant:

(1) Has received from an educational institution accredited or recognized by national or regional accrediting agencies as maintaining satisfactory standards, including those approved by the state board of education for the training of school psychologists, at least a master's degree in school psychology, or a degree considered equivalent by the board;

(2) Is at least twenty-one years of age;

(3) Is of good moral character;

(4) Has completed at least sixty quarter hours, or the semester hours equivalent, at the graduate level, of accredited study in course work relevant to the study of school psychology;

(5) Has completed an internship in an educational institution approved by the Ohio department of education for school psychology supervised experience or one year of other training experience acceptable to the board, such as supervised professional experience under the direction of a licensed psychologist or licensed school psychologist;

(6) Furnishes proof of at least twenty-seven months, exclusive of internship, of full-time experience as a certificated school psychologist employed by a board of education or a private school meeting the standards prescribed by the state board of education, or of experience that the board deems equivalent.

(D) If the entrance examiner finds that the applicant meets the requirements set forth in this section, the applicant shall be admitted to the appropriate examination.

(E) The board shall adopt under Chapter 119. of the Revised Code rules for determining for the purposes of division (B)(3)(b) of this section whether a degree is equivalent to a degree in psychology from an institution in the United States.

**Sec. 4735.06.** (A) Application for a license as a real estate broker shall be made to the superintendent of real estate on forms furnished by the superintendent and filed with the

superintendent and shall be signed by the applicant or its members or officers. Each application shall state the name of the person applying and the location of the place of business for which the license is desired, and give such other information as the superintendent requires in the form of application prescribed by the superintendent.

(B)(1) If the applicant is a partnership, limited liability company, limited liability partnership, or association, the names of all the members also shall be stated, and, if the applicant is a corporation, the names of its president and of each of its officers also shall be stated.

The superintendent has the right to reject the application of any partnership, association, limited liability company, limited liability partnership, or corporation if the name proposed to be used by such partnership, association, limited liability company, limited liability partnership, or corporation is likely to mislead the public or if the name is not such as to distinguish it from the name of any existing partnership, association, limited liability company, limited liability partnership, or corporation licensed under this chapter, unless there is filed with the application the written consent of such existing partnership, association, limited liability company, limited liability partnership, or corporation, executed by a duly authorized representative of it, permitting the use of the name of such existing partnership, association, limited liability company, limited liability partnership, or corporation.

(2) The superintendent shall approve the use of a trade name by a brokerage, if the name meets both of the following criteria:

(a) The proposed name is not the same as or is clearly distinguishable from a name registered with the division of real estate and professional licensing by another existing brokerage. If the superintendent determines that the proposed name is not clearly distinguishable from any other existing brokerage, the superintendent may approve the use of the trade name if there is filed with the superintendent the written consent of the existing brokerage with the same or similar name.

(b) The name is not misleading or likely to mislead the public.

(3) The superintendent may approve the use of more than one trade name for a brokerage.

(4) When a brokerage has received the approval of the superintendent to conduct business under one or more trade names, those trade names shall be the only identifying names used by the brokerage in all advertising.

(C) A fee of one hundred dollars shall accompany the application for a real estate broker's license. The initial licensing period commences at the time the license is issued and ends on the applicant's first birthday thereafter. However, if the applicant was an inactive or active salesperson immediately preceding application for a broker's license, then the initial licensing period shall commence at the time the broker's license is issued and ends on the date the licensee's continuing education is due as set when the applicant was a salesperson. The application fee shall be nonrefundable. A fee of one hundred dollars shall be charged by the superintendent for each successive application made by an applicant. In the case of issuance of a three-year license, upon passing the examination, or upon waiver of the examination requirement, if the superintendent determines it is necessary, the applicant shall submit an additional fee determined by the superintendent based upon the number of years remaining in a real estate salesperson's licensing period.

(D) One dollar of each application fee for a real estate broker's license shall be credited to the

real estate education and research fund, which is hereby created in the state treasury. The Ohio real estate commission may use the fund in discharging the duties prescribed in divisions (E), (F), (G), and (H) of section 4735.03 of the Revised Code and shall use it in the advancement of education and research in real estate at any institution of higher education in the state, or in contracting with any such institution or a trade organization for a particular research or educational project in the field of real estate, or in advancing loans, not exceeding two thousand dollars, to applicants for salesperson licenses, to defray the costs of satisfying the educational requirements of division (F) of section 4735.09 of the Revised Code. Such loans shall be made according to rules established by the commission under the procedures of Chapter 119. of the Revised Code, and they shall be repaid to the fund within three years of the time they are made. No more than twenty-five thousand dollars shall be lent from the fund in any one fiscal year.

The governor may appoint a representative from the executive branch to be a member ex officio of the commission for the purpose of advising on research requests or educational projects. The commission shall report to the general assembly on the third Tuesday after the third Monday in January of each year setting forth the total amount contained in the fund and the amount of each research grant that it has authorized and the amount of each research grant requested. A copy of all research reports shall be submitted to the state library of Ohio and the library of the legislative service commission.

(E) If the superintendent, with the consent of the commission, enters into an agreement with a national testing service to administer the real estate broker's examination, pursuant to division (A) of section 4735.07 of the Revised Code, the superintendent may require an applicant to pay the testing service's examination fee directly to the testing service. If the superintendent requires the payment of the examination fee directly to the testing service, each applicant shall submit to the superintendent a processing fee in an amount determined by the Ohio real estate commission pursuant to division (A) (2) of section 4735.10 of the Revised Code.

**Sec. 4735.13.** (A) Every real estate broker licensed under this chapter shall have and maintain a definite place of business in this state. A post office box address is not a definite place of business for purposes of this section. The license of a real estate broker shall be prominently displayed in the office or place of business of the broker, and no license shall authorize the licensee to do business except from the location specified in it. If the broker maintains more than one place of business within the state, the broker shall apply for and procure a duplicate license for each branch office maintained by the broker. Each branch office shall be in the charge of a licensed broker or salesperson. The branch office license shall be prominently displayed at the branch office location.

(B) The license of each real estate salesperson shall be mailed to and remain in the possession of the licensed broker with whom the salesperson is or is to be associated until the licensee places the license on inactive or resigned status or until the salesperson leaves the brokerage or is terminated. The broker shall keep each salesperson's license in a way that it can, and shall on request, be made immediately available for public inspection at the office or place of business of the broker. Except as provided in divisions (G) and (H) of this section, immediately upon the salesperson's leaving the association or termination of the association of a real estate salesperson with the broker, the broker shall return the salesperson's license to the superintendent of real estate.

The failure of a broker to return the license of a real estate salesperson or broker who leaves

or who is terminated, via certified mail return receipt requested, within three business days of the receipt of a written request from the superintendent for the return of the license, is prima-facie evidence of misconduct under division (A)(6) of section 4735.18 of the Revised Code.

(C) A licensee shall notify the superintendent in writing within fifteen days of any of the following occurrences:

(1) The licensee is convicted of a felony.

(2) The licensee is convicted of a crime involving moral turpitude.

(3) The licensee is found to have violated any federal, state, or municipal civil rights law pertaining to discrimination in housing.

(4) The licensee is found to have engaged in a discriminatory practice pertaining to housing accommodations described in division (H) of section 4112.02 of the Revised Code.

(5) The licensee is the subject of an order by the department of commerce, the department of insurance, or the department of agriculture revoking or permanently surrendering any professional license, certificate, or registration.

(6) The licensee is the subject of an order by any government agency concerning real estate, financial matters, or the performance of fiduciary duties with respect to any license, certificate, or registration.

If a licensee fails to notify the superintendent within the required time, the superintendent immediately may suspend the license of the licensee.

Any court that convicts a licensee of a violation of any municipal civil rights law pertaining to housing discrimination also shall notify the Ohio civil rights commission within fifteen days of the conviction.

(D) In case of any change of business location, a broker shall give notice to the superintendent, on a form prescribed by the superintendent, within thirty days after the change of location, whereupon the superintendent shall issue new licenses for the unexpired period without charge. If a broker changes a business location without giving the required notice and without receiving new licenses that action is prima-facie evidence of misconduct under division (A)(6) of section 4735.18 of the Revised Code.

(E) If a real estate broker desires to associate with another real estate broker in the capacity of a real estate salesperson, the broker shall apply to the superintendent to deposit the broker's real estate broker's license with the superintendent and for the issuance of a real estate salesperson's license. The application shall be made on a form prescribed by the superintendent and shall be accompanied by the recommendation of the real estate broker with whom the applicant intends to become associated and a fee of twenty-five dollars for the real estate salesperson's license. One dollar of the fee shall be credited to the real estate education and research fund. If the superintendent is satisfied that the applicant is honest, truthful, and of good reputation, has not been convicted of a felony or a crime involving moral turpitude, and has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate, and that the association of the real estate broker and the applicant will be in the public interest, the superintendent shall grant the application and issue a real estate salesperson's license to the applicant. Any license so deposited with the superintendent shall be subject to this chapter. A broker who intends to deposit the broker's license with the superintendent, as provided in

this section, shall give written notice of this fact in a format prescribed by the superintendent to all salespersons associated with the broker when applying to place the broker's license on deposit.

(F) If a real estate broker desires to become a member or officer of a partnership, association, limited liability company, limited liability partnership, or corporation that is or intends to become a licensed real estate broker, the broker shall notify the superintendent of the broker's intentions. The notice of intention shall be on a form prescribed by the superintendent and shall be accompanied by a fee of twenty-five dollars. One dollar of the fee shall be credited to the real estate education and research fund.

A licensed real estate broker who is a member or officer of a partnership, association, limited liability company, limited liability partnership, or corporation shall only act as a real estate broker for such partnership, association, limited liability company, limited liability partnership, or corporation.

(G)(1) If a real estate broker or salesperson enters the armed forces, the broker or salesperson may place the broker's or salesperson's license on deposit with the Ohio real estate commission. The licensee shall not be required to renew the license until the renewal date that follows the date of discharge from the armed forces. Any license deposited with the commission shall be subject to this chapter.

Any licensee whose license is on deposit under this division and who fails to meet the continuing education requirements of section 4735.141 of the Revised Code because the licensee is in the armed forces shall satisfy the commission that the licensee has complied with the continuing education requirements within twelve months of the licensee's first birthday after discharge or within the amount of time equal to the total number of months the licensee spent on active duty, whichever is greater. The licensee shall submit proper documentation of active duty service and the length of that active duty service to the superintendent. The extension shall not exceed the total number of months that the licensee served in active duty. The superintendent shall notify the licensee of the licensee's obligations under section 4735.141 of the Revised Code at the time the licensee applies for reactivation of the licensee's license.

(2) If a licensee is a spouse of a member of the armed forces and the spouse's service resulted in the licensee's absence from this state, both of the following apply:

(a) The licensee shall not be required to renew the license until the renewal date that follows the date of the spouse's discharge from the armed forces.

(b) If the licensee fails to meet the continuing education requirements of section 4735.141 of the Revised Code, the licensee shall satisfy the commission that the licensee has complied with the continuing education requirements within twelve months after the licensee's first birthday after the spouse's discharge or within the amount of time equal to the total number of months the licensee's spouse spent on active duty, whichever is greater. The licensee shall submit proper documentation of the spouse's active duty service and the length of that active duty service. This extension shall not exceed the total number of months that the licensee's spouse served in active duty.

(3) In the case of a licensee as described in division (G)(2) of this section, who holds the license through a reciprocity agreement with another state, the spouse's service shall have resulted in the licensee's absence from the licensee's state of residence for the provisions of that division to apply.

(4) As used in this division, "armed forces" means the armed forces of the United States or



reserve component of the armed forces of the United States including the Ohio national guard or the national guard of any other state.

(H) If a licensed real estate salesperson submits an application to the superintendent to leave the association of one broker to associate with a different broker, the broker possessing the licensee's license need not return the salesperson's license to the superintendent. The superintendent may process the application regardless of whether the licensee's license is returned to the superintendent.

**Sec. 4735.141.** (A) Except as otherwise provided in this division and in section 4735.13 of the Revised Code and except for a licensee who has placed the licensee's license in resigned status pursuant to section 4735.142 of the Revised Code, each person licensed under section 4735.07 or 4735.09 of the Revised Code shall submit proof satisfactory to the superintendent of real estate that the licensee has satisfactorily completed thirty hours of continuing education, as prescribed by the Ohio real estate commission pursuant to section 4735.10 of the Revised Code, on or before the licensee's birthday occurring three years after the licensee's date of initial licensure, and on or before the licensee's birthday every three years thereafter. If the person is licensed as a broker or broker on deposit, or acts as a management level licensee, the continuing education shall include a three-hour course on the duties of a principal broker and other issues involved in operating a real estate brokerage. The continuing education may be completed by either classroom instruction or distance education.

Persons licensed as real estate salespersons who subsequently become licensed real estate brokers shall continue to submit proof of continuing education in accordance with the time period established in this section.

The requirements of this section shall not apply to any disabled licensee as provided in division (E) of this section.

Each licensee who is seventy years of age or older, within a continuing education reporting period, shall submit proof satisfactory to the superintendent of real estate that the licensee has satisfactorily completed both of the following:

(1) A total of nine hours of continuing education, including instruction in Ohio real estate law; recently enacted state and federal laws affecting the real estate industry; municipal, state, and federal civil rights law; and canons of ethics for the real estate industry as adopted by the commission;

(2) If licensed as a broker, broker on deposit, or acting as a management level licensee, a three-hour continuing education course on the duties of a principal broker and other issues involved in operating a real estate brokerage.

The continuing education may be completed by either classroom instruction or distance education. The required proof of completion shall be submitted on or before the licensee's birthday that falls in the third year of that continuing education reporting period. A licensee who is seventy years of age or older whose license is in an inactive status is exempt from the continuing education requirements specified in this section. The commission shall adopt reasonable rules in accordance with Chapter 119. of the Revised Code to carry out the purposes of this paragraph.

(B) The continuing education requirements of this section shall be completed in schools, seminars, and educational institutions approved by the commission. Such approval shall be given according to rules established by the commission under the procedures of Chapter 119. of the

Revised Code, and shall not be limited to institutions providing two-year or four-year degrees. Each school, seminar, or educational institution approved under this division shall be open to all licensees on an equal basis.

(C) If the requirements of this section are not met by a licensee within the period specified, the licensee's license shall be suspended automatically without the taking of any action by the superintendent. The superintendent shall notify the licensee of the license suspension, and such notification shall be sent by regular mail to the personal residence address of the licensee that is on file with the division. Any license so suspended shall remain suspended until it is reactivated by the superintendent. No such license shall be reactivated until it is established, to the satisfaction of the superintendent, that the requirements of this section have been met. If the requirements of this section are not met within twelve months from the date the license was suspended, the license shall be revoked automatically without the taking of any action by the superintendent.

(D) If the license of a real estate broker is suspended pursuant to division (C) of this section, the license of a real estate salesperson associated with that broker correspondingly is suspended pursuant to division (H) of section 4735.20 of the Revised Code. A sole broker shall notify affiliated salespersons of the suspension in writing within three days of receiving the notice required by division (C) of this section.

(1) The suspended license of the associated real estate salesperson shall be reactivated and no fee shall be charged or collected for that reactivation if that broker subsequently submits proof to the superintendent that the broker has complied with the requirements of this section and requests that the broker's license as a real estate broker be reactivated, and the superintendent then reactivates the broker's license as a real estate broker.

(2) If the real estate salesperson submits an application to leave the association of the suspended broker in order to associate with a different broker, the suspended license of the associated real estate salesperson shall be reactivated and no fee shall be charged or collected for that reactivation. The superintendent may process the application regardless of whether the licensee's license is returned to the superintendent.

Any person whose license is reactivated pursuant to this division shall comply with the requirements of this section and otherwise be in compliance with this chapter.

(E) Any licensee who is a disabled licensee at any time during the last three months of the third year of the licensee's continuing education reporting period may receive an extension of time as deemed appropriate by the superintendent to submit proof to the superintendent that the licensee has satisfactorily completed the required thirty hours of continuing education. To receive an extension of time, the licensee shall submit a request to the division of real estate for the extension and proof satisfactory to the commission that the licensee was a disabled licensee at some time during the last three months of the three-year reporting period. The proof shall include, but is not limited to, a signed statement by the licensee's attending physician describing the disability, certifying that the licensee's disability is of such a nature as to prevent the licensee from attending any instruction lasting at least three hours in duration, and stating the expected duration of the disability. The licensee shall request the extension and provide the physician's statement to the division no later than one month prior to the end of the licensee's three-year continuing education reporting period, unless the disability did not arise until the last month of the three-year reporting period, in which event the licensee shall request

the extension and provide the physician's statement as soon as practical after the occurrence of the disability. A licensee granted an extension pursuant to this division who is no longer a disabled licensee and who submits proof of completion of the continuing education during the extension period, shall submit, for future continuing education reporting periods, proof of completion of the continuing education requirements according to the schedule established in division (A) of this section.

(F) The superintendent shall not renew a license if the licensee fails to comply with this section, and the licensee shall be required to pay the penalty fee provided in section 4735.14 of the Revised Code.

(G) A licensee shall submit proof of completion of the required continuing education with the licensee's notice of renewal. The proof shall be submitted in the manner provided by the superintendent.

**Sec. 4736.12.** (A) The director of health shall charge the following fees:

(1) To apply as a sanitarian-in-training, eighty dollars;

(2) For sanitarians-in-training to apply for registration as sanitarians, eighty dollars. The applicant shall pay this fee only once regardless of the number of times the applicant takes an examination required under section 4736.08 of the Revised Code.

(3) For persons other than sanitarians-in-training to apply for registration as sanitarians, one hundred sixty dollars. The applicant shall pay this fee only once regardless of the number of times the applicant takes an examination required under section 4736.08 of the Revised Code.

(4) The renewal fee for registered sanitarians shall be ninety dollars.

(5) The renewal fee for sanitarians-in-training shall be ninety dollars.

(6) For late application for renewal, an additional seventy-five dollars.

The director, with the approval of the controlling board, may establish fees in excess of the amounts provided in this section, provided that such fees do not exceed the amounts permitted by this section by more than fifty per cent.

(B) The director shall charge separate fees for examinations as required by section 4736.08 of the Revised Code, provided that the fees are not in excess of the actual cost to the department of health of conducting the examinations.

(C) The director may adopt rules establishing fees for all of the following:

(1) Application for the registration of a training agency approved under rules adopted by the director pursuant to section 4736.11 of the Revised Code and for the annual registration renewal of an approved training agency;

(2) Application for the review of continuing education hours submitted for the director's approval by approved training agencies or by registered sanitarians or sanitarians-in-training;

(3) Additional copies of pocket identification cards and wall certificates.

**Sec. 4741.03.** (A) The state veterinary medical licensing board shall meet at least once in each calendar year and may hold additional meetings as often as it considers necessary to conduct the business of the board. The president of the board may call special meetings, and the executive director shall call special meetings upon the written request of three members of the board. The board shall organize by electing a president and vice-president from its veterinarian members and such other officers as the board prescribes by rule. Each officer shall serve for a term specified by board

rule or until a successor is elected and qualified. A quorum of the board consists of four members of which at least three are members who are veterinarians. The concurrence of four members is necessary for the board to take any action.

(B) The board may appoint a person, not one of its members, to serve as its executive director. The executive director is in the unclassified service and serves at the pleasure of the board. The executive director shall serve as the board's secretary-treasurer ex officio. The board may employ additional employees for professional, technical, clerical, and special work as it considers necessary. The executive director shall give a surety bond to the state in the sum the board requires, conditioned upon the faithful performance of the executive director's duties. The board shall pay the cost of the bond. The executive director shall keep a complete accounting of all funds received and of all vouchers presented by the board to the director of budget and management for the disbursement of funds. The president or executive director shall approve all vouchers of the board. All money received by the board shall be credited to the occupational licensing and regulatory fund.

(C) In addition to any other duty required under this chapter, the board shall do all of the following:

- (1) Prescribe a seal;
- (2) Review the results of ~~board-approved~~ board-approved, nationally recognized examinations taken by applicants in accordance with rules adopted by the board.
- (3) Keep a record of all of its meetings and proceedings;
- (4) Maintain a register that records all applicants for a certificate of license or a temporary permit, all persons who have been denied a license or permit, all persons who have been granted or reissued a license or permit, and all persons whose license or permit has been revoked or suspended. The register shall also include a record of persons licensed prior to October 17, 1975.
- (5) Maintain a register, in such form as the board determines by rule, of all colleges and universities that teach veterinary medicine and veterinary technology that are approved by the board;
- (6) Enforce this chapter, and for that purpose, make investigations relative as provided in section 4741.26 of the Revised Code;
- (7) Issue licenses and permits to persons who meet the qualifications set forth in this chapter;
- (8) Approve colleges and universities which meet the board's requirements for veterinary medicine and associated fields of study and withdraw or deny, after an adjudication conducted in accordance with Chapter 119. of the Revised Code, approval from colleges and universities which fail to meet those requirements;
- (9) Adopt rules, in accordance with Chapter 119. of the Revised Code, which are necessary for its government and for the administration and enforcement of this chapter.

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

- (1) Subpoena witnesses and require their attendance and testimony, and require the production by witnesses of books, papers, public records, animal patient records, and other documentary evidence and examine them, in relation to any matter that the board has authority to investigate, inquire into, or hear. Except for any officer or employee of the state or any political subdivision of the state, the treasurer of state shall pay all witnesses in any proceeding before the board, upon certification from the board, witness fees and mileage in the amount provided for under section 119.094 of the Revised Code.

(2) Examine and inspect books, papers, public records, animal patient records, and other documentary evidence at the location where the books, papers, records, and other evidence are normally stored or maintained.

(E) All registers, books, and records kept by the board are the property of the board and are open for public examination and inspection at all reasonable times in accordance with section 149.43 of the Revised Code. The registers, books, and records are prima-facie evidence of the matters contained in them.

**Sec. 4741.11.** Whenever an applicant for a license to practice veterinary medicine has graduated from a veterinary college approved by the state veterinary medical licensing board or accredited by the American veterinary medical association or has been issued a certificate on or after May 1, 1987, by the education commission for foreign veterinary graduates of the American veterinary medical association or by the program for the assessment of veterinary education equivalence of the American association of veterinary state boards, has passed the nationally recognized examination approved by the state veterinary medical licensing board in accordance with rules adopted by the board, and is not in violation of this chapter, the board shall issue a certificate of license to that effect, signed by the members and bearing the seal of the board. The certificate shall show that the successful applicant has qualified under the laws of this state and the requirements of the board and that the applicant is duly licensed and qualified to practice veterinary medicine.

**Sec. 4741.12.** The state veterinary medical licensing board may issue a license to practice veterinary medicine without the examination required pursuant to section 4741.11 of the Revised Code to an applicant from another state, territory, country, or the District of Columbia who furnishes satisfactory proof to the board that the applicant meets all of the following criteria:

(A) The applicant is a graduate of a veterinary college accredited by the American veterinary medical association or holds a certificate issued, on or after May 1, 1987, by the education commission for foreign veterinary graduates of the American veterinary medical association or issued by any other nationally recognized certification program the board approves by rule.

(B) The applicant holds a license, which is not under suspension, revocation, or other disciplinary action, issued by an agency similar to this board of another state, territory, country, or the District of Columbia, having requirements equivalent to those of this state, provided the laws of such state, territory, country, or district accord equal rights to the holder of a license to practice in this state who removes to such state, territory, country, or district.

(C) The applicant is of good moral character, as determined by the board.

(D) The applicant is not under investigation for an act which would constitute a violation of this chapter that would require the revocation of or refusal to renew a license.

(E) The applicant has a thorough knowledge of the laws and rules governing the practice of veterinary medicine in this state, as determined by the board.

**Sec. 4741.17.** (A) Applicants or registrants shall pay to the state veterinary medical licensing board:

(1) For an initial veterinary license, on or after the first day of March in an even-numbered year, four hundred twenty-five dollars, and on or after the first day of March in an odd-numbered year, three hundred dollars;

(2) For an initial limited license to practice veterinary medicine for an intern, resident in a

veterinary specialty, or graduate student, thirty-five dollars;

(3) For an initial limited license to practice veterinary medicine for an instructor, researcher, or diagnostician, one hundred fifty-five dollars;

(4) For a veterinary temporary permit, one hundred dollars;

(5) For a duplicate license, thirty-five dollars;

(6) For the veterinary license biennial renewal fee, where the application is postmarked no later than the first day of March, one hundred fifty-five dollars; where the application is postmarked after the first day of March, but no later than the first day of April, two hundred twenty-five dollars; and where the application is postmarked after the first day of April, four hundred fifty dollars. Notwithstanding section 4741.25 of the Revised Code, the board shall deposit ten dollars of each veterinary license biennial renewal fee that it collects into the state treasury to the credit of the veterinarian loan repayment fund created in section 4741.46 of the Revised Code.

(7) For the limited license to practice veterinary medicine biennial renewal fee, where the application is postmarked not later than the first day of July, one hundred fifty-five dollars; where the application is postmarked after the first day of July, but not later than the first day of August, two hundred twenty-five dollars; and where the application is postmarked after the first day of August, four hundred fifty dollars. Notwithstanding section 4741.25 of the Revised Code, the board shall deposit ten dollars of each limited license biennial renewal fee that it collects from instructors, researchers, and diagnosticians into the state treasury to the credit of the veterinarian loan repayment fund.

(8) For an initial registered veterinary technician registration fee on or after the first day of March in an odd-numbered year, thirty-five dollars, and on or after the first day of March in an even-numbered year, twenty-five dollars;

(9) For the biennial renewal registration fee of a registered veterinary technician, where the application is postmarked no later than the first day of March, thirty-five dollars; where the application is postmarked after the first day of March, but no later than the first day of April, forty-five dollars; and where the application is postmarked after the first day of April, sixty dollars;

(10) For a specialist certificate, fifty dollars. The certificate is not subject to renewal.

(11) For the reinstatement of a suspended license, or for reinstatement of a license that has lapsed more than one year, an additional fee of seventy-five dollars;

(12) For a provisional veterinary graduate license, one hundred dollars.

(B) For the purposes of divisions (A)(6), (7), and (9) of this section, a date stamp of the office of the board may serve in lieu of a postmark.

**Sec. 4741.19.** (A) Unless exempted under this chapter, no person shall practice veterinary medicine, or any of its branches, without a license or limited license issued by the state veterinary medical licensing board pursuant to sections 4741.11 to 4741.13 of the Revised Code, a temporary permit issued pursuant to section 4741.14 of the Revised Code, or a registration certificate issued pursuant to division (C) of this section, or with an inactive, expired, suspended, terminated, or revoked license, temporary permit, or registration.

(B) No veterinary student shall:

(1) Perform or assist surgery unless under direct veterinary supervision and unless the student has had the minimum education and experience prescribed by rule of the board;

(2) Engage in any other work related to the practice of veterinary medicine unless under veterinary supervision;

(3) Participate in the operation of a branch office, clinic, or allied establishment unless a licensed veterinarian is present on the establishment premises.

(C) No person shall act as a registered veterinary technician unless the person is registered with the board on a biennial basis and pays the biennial registration fee. A registered veterinary technician registration expires biennially on the first day of March in the odd-numbered years and may be renewed in accordance with the standard renewal procedures contained in Chapter 4745. of the Revised Code upon payment of the biennial registration fee and fulfillment of ten continuing education hours during the two years immediately preceding renewal for registration. Each registered veterinary technician shall notify in writing the executive director of the board of any change in the registered veterinary technician's office address or employment within ninety days after the change has taken place.

(1) A registered veterinary technician operating under veterinary supervision may perform the following duties:

(a) Prepare or supervise the preparation of patients, instruments, equipment, and medications for surgery;

(b) Collect or supervise the collection of specimens and perform laboratory procedures as required by the supervising veterinarian;

(c) Apply wound dressings, casts, or splints as required by the supervising veterinarian;

(d) Assist a veterinarian in immunologic, diagnostic, medical, and surgical procedures;

(e) Suture skin incisions;

(f) Administer or supervise the administration of topical, oral, or parenteral medication under the direction of the supervising veterinarian;

(g) Other ancillary veterinary technician functions that are performed pursuant to the order and control and under the full responsibility of a licensed veterinarian.

(h) Any additional duties as established by the board in rule.

(2) A registered veterinary technician operating under direct veterinary supervision may perform all of the following:

(a) Induce and monitor general anesthesia according to medically recognized and appropriate methods;

(b) Dental prophylaxis, periodontal care, and extraction not involving sectioning of teeth or resection of bone or both of these;

(c) Equine dental procedures, including the floating of molars, premolars, and canine teeth; removal of deciduous teeth; and the extraction of first premolars or wolf teeth.

The degree of supervision by a licensed veterinarian over the functions performed by the registered veterinary technician shall be consistent with the standards of generally accepted veterinary medical practices.

(D) A veterinarian licensed to practice in this state shall not present the person's self as or state a claim that the person is a specialist unless the veterinarian has previously met the requirements for certification by a specialty organization recognized by the American board of veterinary specialties for a specialty or such other requirements set by rule of the board and has paid

the fee required by division (A)(10) of section 4741.17 of the Revised Code.

(E) Notwithstanding division (A) of this section, any animal owner or the owner's designee may engage in the practice of embryo transfer on the owner's animal if a licensed veterinarian directly supervises the owner or the owner's designee and the means used to perform the embryo transfer are nonsurgical.

(F) Allied medical support may assist a licensed veterinarian to the extent to which the law that governs the individual providing the support permits, if all of the following apply:

- (1) A valid veterinary-client-patient-relationship exists.
- (2) The individual acts under direct veterinary supervision.
- (3) The allied medical support individual receives informed, written, client consent.
- (4) The veterinarian maintains responsibility for the patient and keeps the patient's medical records.

The board may inspect the facilities of an allied medical support individual in connection with an investigation based on a complaint received in accordance with section 4741.26 of the Revised Code involving that individual.

**Sec. 4741.22.** (A) The state veterinary medical licensing board may refuse to issue or renew a license, limited license, registration, or temporary permit to or of any applicant who, and may issue a reprimand to, suspend or revoke the license, limited license, registration, or the temporary permit of, or impose a civil penalty pursuant to this section upon any person holding a license, limited license, or temporary permit to practice veterinary medicine or any person registered as a registered veterinary technician who:

(1) In the conduct of the person's practice does not conform to the rules of the board or the standards of the profession governing proper, humane, sanitary, and hygienic methods to be used in the care and treatment of animals;

(2) Uses fraud, misrepresentation, or deception in any application or examination for licensure, or any other documentation created in the course of practicing veterinary medicine;

(3) Is found to be physically or psychologically addicted to alcohol or an illegal or controlled substance, as defined in section 3719.01 of the Revised Code, to such a degree as to render the person unfit to practice veterinary medicine;

(4) Directly or indirectly employs or lends the person's services to a solicitor for the purpose of obtaining patients;

(5) Obtains a fee on the assurance that an incurable disease can be cured;

(6) Advertises in a manner that violates section 4741.21 of the Revised Code;

(7) Divides fees or charges or has any arrangement to share fees or charges with any other person, except on the basis of services performed;

(8) Sells any biologic containing living, dead, or sensitized organisms or products of those organisms, except in a manner that the board by rule has prescribed;

(9) Is convicted of or pleads guilty to any felony or crime involving illegal or prescription drugs, or fails to report to the board within sixty days of the individual's conviction of, plea of guilty to, or treatment in lieu of conviction involving a felony, misdemeanor of the first degree, or offense involving illegal or prescription drugs;

(10) Is convicted of any violation of section 959.13 of the Revised Code;



(11) Swears falsely in any affidavit required to be made by the person in the course of the practice of veterinary medicine;

(12) Fails to report promptly to the proper official any known reportable disease;

(13) Fails to report promptly vaccinations or the results of tests when required to do so by law or rule;

(14) Has been adjudicated incompetent for the purpose of holding the license or permit by a court, as provided in Chapter 2111. of the Revised Code, and has not been restored to legal capacity for that purpose;

(15) Permits a person who is not a licensed veterinarian, a veterinary student, or a registered veterinary technician to engage in work or perform duties in violation of this chapter;

(16) Is guilty of gross incompetence or gross negligence;

(17) Has had a license to practice veterinary medicine or a license, registration, or certificate to engage in activities as a registered veterinary technician revoked, suspended, or acted against by disciplinary action by an agency similar to this board of another state, territory, or country or the District of Columbia;

(18) Is or has practiced with a revoked, suspended, inactive, expired, or terminated license or registration;

(19) Represents self as a specialist unless certified as a specialist by the board;

(20) In the person's capacity as a veterinarian or registered veterinary technician makes or files a report, health certificate, vaccination certificate, or other document that the person knows is false or negligently or intentionally fails to file a report or record required by any applicable state or federal law;

(21) Fails to use reasonable care in the administration of drugs or acceptable scientific methods in the selection of those drugs or other modalities for treatment of a disease or in conduct of surgery;

(22) Makes available a dangerous drug, as defined in section 4729.01 of the Revised Code, to any person other than for the specific treatment of an animal patient;

(23) Refuses to permit a board investigator or the board's designee to inspect the person's business premises during regular business hours, except as provided in division (A) of section 4741.26 of the Revised Code;

(24) Violates any order of the board or fails to comply with a subpoena of the board;

(25) Fails to maintain medical records as required by rule of the board;

(26) Engages in cruelty to animals;

(27) Uses, prescribes, or sells any veterinary prescription drug or biologic, or prescribes any extra-label use of any over-the-counter drug or dangerous drug in the absence of a valid veterinary-client-patient relationship.

(B) Except as provided in division (D) of this section, before the board may revoke, deny, refuse to renew, or suspend a license, registration, or temporary permit or otherwise discipline the holder of a license, registration, or temporary permit, the executive director shall file written charges with the board. The board shall conduct a hearing on the charges as provided in Chapter 119. of the Revised Code.

(C) If the board, after a hearing conducted pursuant to Chapter 119. of the Revised Code,

revokes, refuses to renew, or suspends a license, registration, or temporary permit for a violation of this section, section 4741.23, division (C) or (D) of section 4741.19, or division (B), (C), or (D) of section 4741.21 of the Revised Code, the board may impose a civil penalty upon the holder of the license, permit, or registration of not less than one hundred dollars or more than one thousand dollars. In addition to the civil penalty and any other penalties imposed pursuant to this chapter, the board may assess any holder of a license, permit, or registration the costs of the hearing conducted under this section if the board determines that the holder has violated any provision for which the board may impose a civil penalty under this section.

(D) The executive director may recommend that the board suspend an individual's certificate of license without a prior hearing if the executive director determines both of the following:

(1) There is clear and convincing evidence that division (A)(3), (9), (14), (22), or (26) of this section applies to the individual.

(2) The individual's continued practice presents a danger of immediate and serious harm to the public.

The executive director shall prepare written allegations for consideration by the board. The board, upon review of those allegations and by an affirmative vote of not fewer than four of its members, may suspend the certificate without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the suspension.

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If the individual subject to the suspension requests an adjudicatory hearing by the board, the date set for the hearing shall be not later than fifteen days, but not earlier than seven days after the individual requests the hearing unless otherwise agreed to by both the board and the individual.

A suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board under this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order not later than ninety days after completion of its hearing. Failure to issue the order within ninety days results in dissolution of the suspension order, but does not invalidate any subsequent, final adjudicative order.

(E) A license or registration issued to an individual under this chapter is automatically suspended upon that individual's conviction of or plea of guilty to or upon a judicial finding with regard to any of the following: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. The suspension shall remain in effect from the date of the conviction, plea, or finding until an adjudication is held under Chapter 119. of the Revised Code. If the board has knowledge that an automatic suspension has occurred, it shall notify the individual subject to the suspension. If the individual is notified and either fails to request an adjudication within the time periods established by Chapter 119. of the Revised Code or fails to participate in the adjudication, the board shall enter a final order permanently revoking the individual's license or registration.

**Sec. 4741.31.** The state veterinary medical licensing board shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for approving and designating physicians and facilities as treatment providers for veterinarians with substance abuse problems and shall approve and designate treatment providers in accordance with the rules. The rules shall include

standards for both inpatient and outpatient treatment. The rules shall provide that to be approved, a treatment provider must be capable of making an initial examination to determine the type of treatment required for a veterinarian with substance abuse problems. Subject to the rules, the board shall review and approve treatment providers on a regular basis and may, at its discretion, withdraw or deny approval.

An approved treatment provider shall:

(A) Report to the board the name of any veterinarian suffering or showing evidence of suffering impairment by reason of alcohol or drug addiction as described in division (A)(3) of section 4741.22 of the Revised Code who fails to comply within one week with a referral for examination;

(B) Report to the board the name of any impaired veterinarian who fails to enter treatment within forty-eight hours following the provider's determination that the veterinarian needs treatment;

(C) Require every veterinarian who enters treatment to agree to a treatment contract establishing the terms of treatment and aftercare, including any required supervision or restrictions of practice during treatment or aftercare;

(D) Require a veterinarian to suspend practice on entering any required inpatient treatment;

(E) Report to the board any failure by an impaired veterinarian to comply with the terms of the treatment contract during inpatient or outpatient treatment or aftercare;

(F) Report to the board the resumption of practice of any impaired veterinarian before the treatment provider has made a clear determination that the veterinarian is capable of practicing according to acceptable and prevailing standards of care;

(G) Require a veterinarian who resumes practice after completion of treatment to comply with an aftercare contract that meets the requirements of rules adopted by the board for approval of treatment providers;

(H) Report to the board any veterinarian who suffers a relapse at any time during or following aftercare.

Any veterinarian who enters into treatment by an approved treatment provider shall be deemed to have waived any confidentiality requirements that would otherwise prevent the treatment provider from making reports required under this section.

In the absence of fraud or bad faith, no professional association of veterinarians licensed under this chapter that sponsors a committee or program to provide peer assistance to veterinarians with substance abuse problems, no representative or agent of such a committee or program, and no member of the state veterinary medical licensing board shall be liable to any person for damages in a civil action by reason of actions taken to refer a veterinarian to a treatment provider designated by the board or actions or omissions of the provider in treating a veterinarian.

In the absence of fraud or bad faith, no person who reports to the board a veterinarian with a suspected substance abuse problem shall be liable to any person for damages in a civil action as a result of the report.

**Sec. 4760.02.** (A) Except as provided in division (B) of this section, no person shall practice as an anesthesiologist assistant unless the person holds a current, valid certificate issued under this chapter to practice as an anesthesiologist assistant.

(B) Division (A) of this section does not apply to either of the following:

(1) A person participating in a training program leading toward certification by the national

commission for certification of anesthesiologist assistants, as long as the person is supervised by an anesthesiologist, an individual participating in a hospital residency program in preparation to practice as an anesthesiologist, or an anesthesiologist assistant who holds a current, valid certificate to practice issued under this chapter;

(2) Any person who otherwise holds professional authority granted pursuant to the Revised Code to perform any of the activities that an anesthesiologist assistant is authorized to perform.

**Sec. 4760.03.** (A) An individual seeking a certificate to practice as an anesthesiologist assistant shall file with the state medical board a written application on a form prescribed and supplied by the board. The application shall include all of the following information:

(1) Evidence satisfactory to the board that the applicant is at least twenty-one years of age and of good moral character;

(2) Evidence satisfactory to the board that the applicant has successfully completed the training necessary to prepare individuals to practice as anesthesiologist assistants, as specified in section 4760.031 of the Revised Code;

(3) Evidence satisfactory to the board that the applicant holds current certification from the national commission for certification of anesthesiologist assistants and that the requirements for receiving the certification included passage of an examination to determine the individual's competence to practice as an anesthesiologist assistant;

(4) Any other information the board considers necessary to process the application and evaluate the applicant's qualifications.

(B) At the time of making application for a certificate to practice, the applicant shall pay the board a fee of one hundred dollars, no part of which shall be returned.

(C) The board shall review all applications received under this section. Not later than sixty days after receiving a complete application, the board shall determine whether an applicant meets the requirements to receive a certificate to practice. The affirmative vote of not fewer than six members of the board is required to determine that an applicant meets the requirements for a certificate. The board shall not issue a certificate to an applicant unless the applicant is certified by the national commission for certification of anesthesiologist assistants or a successor organization that is recognized by the board.

**Sec. 4760.031.** As a condition of being eligible to receive a certificate to practice as an anesthesiologist assistant, an individual must successfully complete the following training requirements:

(A) A baccalaureate or higher degree program at an institution of higher education accredited by an organization recognized by the board of regents. The program must have included courses in the following areas of study:

- (1) General biology;
- (2) General chemistry;
- (3) Organic chemistry;
- (4) Physics;
- (5) Calculus.

(B) A training program conducted for the purpose of preparing individuals to practice as anesthesiologist assistants. If the program was completed prior to May 31, 2000, the program must

have been completed at case western reserve university or emory university in Atlanta, Georgia. If the program is completed on or after May 31, 2000, the program must be a graduate-level program accredited by the commission on accreditation of allied health education programs or any of the commission's successor organizations. In either case, the training program must have included at least all of the following components:

(1) Basic sciences of anesthesia: physiology, pathophysiology, anatomy, and biochemistry. The courses must be presented as a continuum of didactic courses designed to teach students the foundations of human biological existence on which clinical correlations to anesthesia practice are based.

(2) Pharmacology for the anesthetic sciences. The course must include instruction in the anesthetic principles of pharmacology, pharmacodynamics, pharmacokinetics, uptake and distribution, intravenous anesthetics and narcotics, and volatile anesthetics.

(3) Physics in anesthesia.

(4) Fundamentals of anesthetic sciences, presented as a continuum of courses covering a series of topics in basic medical sciences with special emphasis on the effects of anesthetics on normal physiology and pathophysiology.

(5) Patient instrumentation and monitoring, presented as a continuum of courses focusing on the design of, proper preparation of, and proper methods of resolving problems that arise with anesthesia equipment. The courses must provide a balance between the engineering concepts used in anesthesia instruments and the clinical application of anesthesia instruments.

(6) Clinically based conferences in which techniques of anesthetic management, quality assurance issues, and current professional literature are reviewed from the perspective of practice improvement.

(7) Clinical experience consisting of at least two thousand hours of direct patient contact, presented as a continuum of courses throughout the entirety of the program, beginning with a gradual introduction of the techniques for the anesthetic management of patients and culminating in the assimilation of the graduate of the program into the work force. Areas of instruction must include the following:

- (a) Preoperative patient assessment;
- (b) Indwelling vascular catheter placement, including intravenous and arterial catheters;
- (c) Airway management, including mask airway and orotracheal intubation;
- (d) Intraoperative charting;
- (e) Administration and maintenance of anesthetic agents, narcotics, hypnotics, and muscle relaxants;
- (f) Administration and maintenance of volatile anesthetics;
- (g) Administration of blood products and fluid therapy;
- (h) Patient monitoring;
- (i) Postoperative management of patients;
- (j) Regional anesthesia techniques;
- (k) Administration of vasoactive substances for treatment of unacceptable patient hemodynamic status;

(l) Specific clinical training in all the subspecialties of anesthesia, including pediatrics,

neurosurgery, cardiovascular surgery, trauma, obstetrics, orthopedics, and vascular surgery.

(8) Basic life support that qualifies the individual to administer cardiopulmonary resuscitation to patients in need. The course must include the instruction necessary to be certified in basic life support by the American red cross or the American heart association.

(9) Advanced cardiac life support that qualifies the individual to participate in the pharmacologic intervention and management resuscitation efforts for a patient in full cardiac arrest. The course must include the instruction necessary to be certified in advanced cardiac life support by the American red cross or the American heart association.

**Sec. 4760.032.** In addition to any other eligibility requirement set forth in this chapter, each applicant for a certificate to practice as an anesthesiologist assistant shall comply with sections 4776.01 to 4776.04 of the Revised Code. The state medical board shall not grant to an applicant a certificate to practice as an anesthesiologist assistant unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a certificate issued pursuant to section 4760.04 of the Revised Code.

**Sec. 4760.04.** If the state medical board determines under section 4760.03 of the Revised Code that an applicant meets the requirements for a certificate to practice as an anesthesiologist assistant, the secretary of the board shall register the applicant as an anesthesiologist assistant and issue to the applicant a certificate to practice as an anesthesiologist assistant. The certificate shall expire biennially and may be renewed in accordance with section 4760.06 of the Revised Code.

**Sec. 4760.05.** On application by the holder of a certificate to practice as an anesthesiologist assistant, the state medical board shall issue a duplicate certificate to replace one that is missing or damaged, to reflect a name change, or for any other reasonable cause. The fee for a duplicate certificate is thirty-five dollars.

**Sec. 4760.06.** (A) A person seeking to renew a certificate to practice as an anesthesiologist assistant shall, on or before the thirty-first day of January of each even-numbered year, apply for renewal of the certificate. The state medical board shall provide renewal notices at least one month prior to the expiration date.

Applications shall be submitted to the board in a manner prescribed by the board. Each application shall be accompanied by a biennial renewal fee of one hundred dollars.

The applicant shall report any criminal offense that constitutes grounds for refusing to issue a certificate to practice under section 4760.13 of the Revised Code to which the applicant has pleaded guilty, of which the applicant has been found guilty, or for which the applicant has been found eligible for intervention in lieu of conviction, since last signing an application for a certificate to practice as an anesthesiologist assistant.

(B) To be eligible for renewal, an anesthesiologist assistant must certify to the board that the assistant has maintained certification by the national commission for the certification of anesthesiologist assistants.

(C) If an applicant submits a complete renewal application and qualifies for renewal pursuant to division (B) of this section, the board shall renew the certificate to practice as an anesthesiologist assistant.

(D) A certificate to practice that is not renewed on or before its expiration date is automatically suspended on its expiration date. If a certificate has been suspended pursuant to this

division for two years or less, the board shall reinstate the certificate upon an applicant's submission of a renewal application, the biennial renewal fee, and the applicable monetary penalty. The penalty for reinstatement is twenty-five dollars. If a certificate has been suspended pursuant to this division for more than two years, it may be restored upon an applicant's submission of a restoration application, the biennial renewal fee, and the applicable monetary penalty and compliance with sections 4776.01 to 4776.04 of the Revised Code. The board shall not restore a certificate to practice unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a certificate issued pursuant to section 4760.04 of the Revised Code. The penalty for restoration is fifty dollars.

**Sec. 4760.13.** (A) The state medical board, by an affirmative vote of not fewer than six members, may revoke or may refuse to grant a certificate to practice as an anesthesiologist assistant to a person found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the certificate.

(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice as an anesthesiologist assistant, refuse to issue a certificate to an applicant, refuse to renew a certificate, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for any of the following reasons:

- (1) Permitting the holder's name or certificate to be used by another person;
- (2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;
- (3) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board;
- (4) A departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances whether or not actual injury to the patient is established;
- (5) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;
- (6) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;
- (7) Willfully betraying a professional confidence;
- (8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a certificate to practice as an anesthesiologist assistant.

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

- (9) The obtaining of, or attempting to obtain, money or a thing of value by fraudulent

misrepresentations in the course of practice;

(10) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;

(11) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;

(12) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;

(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;

(14) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(15) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(16) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for violating any state or federal law regulating the possession, distribution, or use of any drug, including trafficking in drugs;

(17) Any of the following actions taken by the state agency responsible for regulating the practice of anesthesiologist assistants in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(18) Violation of the conditions placed by the board on a certificate to practice;

(19) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code;

(20) Failure to cooperate in an investigation conducted by the board under section 4760.14 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(21) Failure to comply with any code of ethics established by the national commission for the certification of anesthesiologist assistants;

(22) Failure to notify the state medical board of the revocation or failure to maintain certification from the national commission for certification of anesthesiologist assistants.

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an anesthesiologist assistant or applicant to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.



(D) For purposes of divisions (B)(11), (14), and (15) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the applicant or certificate holder committed the act in question. The board shall have no jurisdiction under these divisions in cases where the trial court renders a final judgment in the certificate holder's favor and that judgment is based upon an adjudication on the merits. The board shall have jurisdiction under these divisions in cases where the trial court issues an order of dismissal on technical or procedural grounds.

(E) The sealing of conviction records by any court shall have no effect on a prior board order entered under the provisions of this section or on the board's jurisdiction to take action under the provisions of this section if, based upon a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing prior to the court's order to seal the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

(F) For purposes of this division, any individual who holds a certificate to practice issued under this chapter, or applies for a certificate to practice, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(1) In enforcing division (B)(5) of this section, the board, on a showing of a possible violation, may compel any individual who holds a certificate to practice issued under this chapter or who has applied for a certificate to practice pursuant to this chapter to submit to a mental or physical examination, or both. A physical examination may include an HIV test. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an anesthesiologist assistant unable to practice because of the reasons set forth in division (B)(5) of this section, the board shall require the anesthesiologist assistant to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for an initial, continued, reinstated, or renewed certificate to practice. An individual affected by this division shall be afforded an opportunity to demonstrate to the board the ability to resume practicing in compliance with acceptable and prevailing standards of care.

(2) For purposes of division (B)(6) of this section, if the board has reason to believe that any individual who holds a certificate to practice issued under this chapter or any applicant for a certificate to practice suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician qualified to conduct such examination and chosen by the board.

Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony

or presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's certificate or deny the individual's application and shall require the individual, as a condition for an initial, continued, reinstated, or renewed certificate to practice, to submit to treatment.

Before being eligible to apply for reinstatement of a certificate suspended under this division, the anesthesiologist assistant shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care. The demonstration shall include the following:

- (a) Certification from a treatment provider approved under section 4731.25 of the Revised Code that the individual has successfully completed any required inpatient treatment;
- (b) Evidence of continuing full compliance with an aftercare contract or consent agreement;
- (c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making such assessments and shall describe the basis for their determination.

The board may reinstate a certificate suspended under this division after such demonstration and after the individual has entered into a written consent agreement.

When the impaired anesthesiologist assistant resumes practice, the board shall require continued monitoring of the anesthesiologist assistant. The monitoring shall include monitoring of compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, on termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of falsification stating whether the anesthesiologist assistant has maintained sobriety.

(G) If the secretary and supervising member determine that there is clear and convincing evidence that an anesthesiologist assistant has violated division (B) of this section and that the individual's continued practice presents a danger of immediate and serious harm to the public, they may recommend that the board suspend the individual's certificate without a prior hearing. Written allegations shall be prepared for consideration by the board.

The board, on review of the allegations and by an affirmative vote of not fewer than six of its members, excluding the secretary and supervising member, may suspend a certificate without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the summary suspension.

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the anesthesiologist assistant requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the anesthesiologist assistant requests the hearing, unless otherwise agreed to by both the board and the certificate holder.

A summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within sixty days after completion of its hearing. Failure to issue the order within sixty days shall result in

dissolution of the summary suspension order, but shall not invalidate any subsequent, final adjudicative order.

(H) If the board takes action under division (B)(11), (13), or (14) of this section, and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, on exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. On receipt of a petition and supporting court documents, the board shall reinstate the certificate to practice. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of opportunity for hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act, or if no hearing is requested, it may order any of the sanctions specified in division (B) of this section.

(I) The certificate to practice of an anesthesiologist assistant and the assistant's practice in this state are automatically suspended as of the date the anesthesiologist assistant pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment of intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after the suspension shall be considered practicing without a certificate.

The board shall notify the individual subject to the suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose certificate is suspended under this division fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the board shall enter a final order permanently revoking the individual's certificate to practice.

(J) In any instance in which the board is required by Chapter 119. of the Revised Code to give notice of opportunity for hearing and the individual subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In the final order, the board may order any of the sanctions identified under division (A) or (B) of this section.

(K) Any action taken by the board under division (B) of this section resulting in a suspension shall be accompanied by a written statement of the conditions under which the anesthesiologist assistant's certificate may be reinstated. The board shall adopt rules in accordance with Chapter 119. of the Revised Code governing conditions to be imposed for reinstatement. Reinstatement of a certificate suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board.

(L) When the board refuses to grant or issue a certificate to practice as an anesthesiologist assistant to an applicant, revokes an individual's certificate, refuses to renew an individual's certificate, or refuses to reinstate an individual's certificate, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter

ineligible to hold a certificate to practice as an anesthesiologist assistant and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.

(M) Notwithstanding any other provision of the Revised Code, all of the following apply:

(1) The surrender of a certificate to practice issued under this chapter is not effective unless or until accepted by the board. Reinstatement of a certificate surrendered to the board requires an affirmative vote of not fewer than six members of the board.

(2) An application made under this chapter for a certificate to practice may not be withdrawn without approval of the board.

(3) Failure by an individual to renew a certificate to practice in accordance with section 4760.06 of the Revised Code shall not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.

**Sec. 4760.131.** On receipt of a notice pursuant to section 3123.43 of the Revised Code, the state medical board shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a certificate to practice as an anesthesiologist assistant issued pursuant to this chapter.

**Sec. 4760.132.** If the state medical board has reason to believe that any person who has been granted a certificate to practice as an anesthesiologist assistant under this chapter is mentally ill or mentally incompetent, it may file in the probate court of the county in which the person has a legal residence an affidavit in the form prescribed in section 5122.11 of the Revised Code and signed by the board secretary or a member of the board secretary's staff, whereupon the same proceedings shall be had as provided in Chapter 5122. of the Revised Code. The attorney general may represent the board in any proceeding commenced under this section.

If any person who has been granted a certificate to practice is adjudged by a probate court to be mentally ill or mentally incompetent, the person's certificate shall be automatically suspended until the person has filed with the state medical board a certified copy of an adjudication by a probate court of the person's subsequent restoration to competency or has submitted to the board proof, satisfactory to the board, that the person has been discharged as having a restoration to competency in the manner and form provided in section 5122.38 of the Revised Code. The judge of the probate court shall forthwith notify the state medical board of an adjudication of mental illness or mental incompetence, and shall note any suspension of a certificate in the margin of the court's record of such certificate.

**Sec. 4760.133.**

**Sec. 4760.15.** (A) As used in this section, "prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(B) Whenever any person holding a valid certificate issued pursuant to this chapter pleads guilty to, is subject to a judicial finding of guilt of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction for a violation of Chapter 2907., 2925., or 3719. of the Revised Code or of any substantively comparable ordinance of a municipal corporation in connection with the person's practice, the prosecutor in the case, on forms prescribed and provided by the state medical board, shall promptly notify the board of the conviction. Within thirty days of receipt of that information, the board shall initiate action in accordance with Chapter 119. of the Revised Code to determine whether to suspend or revoke the certificate under section 4760.13 of the Revised Code.

(C) The prosecutor in any case against any person holding a valid certificate to practice issued pursuant to this chapter, on forms prescribed and provided by the state medical board, shall notify the board of any of the following:

(1) A plea of guilty to, a finding of guilt by a jury or court of, or judicial finding of eligibility for intervention in lieu of conviction for a felony, or a case in which the trial court issues an order of dismissal upon technical or procedural grounds of a felony charge;

(2) A plea of guilty to, a finding of guilt by a jury or court of, or judicial finding of eligibility for intervention in lieu of conviction for a misdemeanor committed in the course of practice, or a case in which the trial court issues an order of dismissal upon technical or procedural grounds of a charge of a misdemeanor, if the alleged act was committed in the course of practice;

(3) A plea of guilty to, a finding of guilt by a jury or court of, or judicial finding of eligibility for intervention in lieu of conviction for a misdemeanor involving moral turpitude, or a case in which the trial court issues an order of dismissal upon technical or procedural grounds of a charge of a misdemeanor involving moral turpitude.

The report shall include the name and address of the certificate holder, the nature of the offense for which the action was taken, and the certified court documents recording the action.

**Sec. 4760.16.** (A) Within sixty days after the imposition of any formal disciplinary action taken by any health care facility, including a hospital, health care facility operated by an insuring corporation, ambulatory surgical facility, or similar facility, against any individual holding a valid certificate to practice as an anesthesiologist assistant, the chief administrator or executive officer of the facility shall report to the state medical board the name of the individual, the action taken by the facility, and a summary of the underlying facts leading to the action taken. On request, the board shall be provided certified copies of the patient records that were the basis for the facility's action. Prior to release to the board, the summary shall be approved by the peer review committee that reviewed the case or by the governing board of the facility.

The filing of a report with the board or decision not to file a report, investigation by the board, or any disciplinary action taken by the board, does not preclude a health care facility from taking disciplinary action against an anesthesiologist assistant.

In the absence of fraud or bad faith, no individual or entity that provides patient records to the board shall be liable in damages to any person as a result of providing the records.

(B)(1) Except as provided in division (B)(2) of this section, an anesthesiologist assistant, professional association or society of anesthesiologist assistants, physician, or professional association or society of physicians that believes a violation of any provision of this chapter, Chapter 4731. of the Revised Code, or rule of the board has occurred shall report to the board the information on which the belief is based.

(2) An anesthesiologist assistant, professional association or society of anesthesiologist assistants, physician, or professional association or society of physicians that believes that a violation of division (B)(6) of section 4760.13 of the Revised Code has occurred shall report the information upon which the belief is based to the monitoring organization conducting the program established by the board under section 4731.251 of the Revised Code. If any such report is made to the board, it shall be referred to the monitoring organization unless the board is aware that the individual who is the subject of the report does not meet the program eligibility requirements of section 4731.252 of

the Revised Code.

(C) Any professional association or society composed primarily of anesthesiologist assistants that suspends or revokes an individual's membership for violations of professional ethics, or for reasons of professional incompetence or professional malpractice, within sixty days after a final decision, shall report to the board, on forms prescribed and provided by the board, the name of the individual, the action taken by the professional organization, and a summary of the underlying facts leading to the action taken.

The filing of a report with the board or decision not to file a report, investigation by the board, or any disciplinary action taken by the board, does not preclude a professional organization from taking disciplinary action against an anesthesiologist assistant.

(D) Any insurer providing professional liability insurance to any person holding a valid certificate to practice as an anesthesiologist assistant or any other entity that seeks to indemnify the professional liability of an anesthesiologist assistant shall notify the board within thirty days after the final disposition of any written claim for damages where such disposition results in a payment exceeding twenty-five thousand dollars. The notice shall contain the following information:

- (1) The name and address of the person submitting the notification;
- (2) The name and address of the insured who is the subject of the claim;
- (3) The name of the person filing the written claim;
- (4) The date of final disposition;
- (5) If applicable, the identity of the court in which the final disposition of the claim took place.

(E) The board may investigate possible violations of this chapter or the rules adopted under it that are brought to its attention as a result of the reporting requirements of this section, except that the board shall conduct an investigation if a possible violation involves repeated malpractice. As used in this division, "repeated malpractice" means three or more claims for malpractice within the previous five-year period, each resulting in a judgment or settlement in excess of twenty-five thousand dollars in favor of the claimant, and each involving negligent conduct by the anesthesiologist assistant.

(F) All summaries, reports, and records received and maintained by the board pursuant to this section shall be held in confidence and shall not be subject to discovery or introduction in evidence in any federal or state civil action involving an anesthesiologist assistant, supervising physician, or health care facility arising out of matters that are the subject of the reporting required by this section. The board may use the information obtained only as the basis for an investigation, as evidence in a disciplinary hearing against an anesthesiologist assistant or supervising physician, or in any subsequent trial or appeal of a board action or order.

The board may disclose the summaries and reports it receives under this section only to health care facility committees within or outside this state that are involved in credentialing or recredentialing an anesthesiologist assistant or supervising physician or reviewing their privilege to practice within a particular facility. The board shall indicate whether or not the information has been verified. Information transmitted by the board shall be subject to the same confidentiality provisions as when maintained by the board.

(G) Except for reports filed by an individual pursuant to division (B) of this section, the board shall send a copy of any reports or summaries it receives pursuant to this section to the

anesthesiologist assistant. The anesthesiologist assistant shall have the right to file a statement with the board concerning the correctness or relevance of the information. The statement shall at all times accompany that part of the record in contention.

(H) An individual or entity that reports to the board, reports to the monitoring organization described in section 4731.251 of the Revised Code, or refers an impaired anesthesiologist assistant to a treatment provider approved by the board under section 4731.25 of the Revised Code shall not be subject to suit for civil damages as a result of the report, referral, or provision of the information.

(I) In the absence of fraud or bad faith, a professional association or society of anesthesiologist assistants that sponsors a committee or program to provide peer assistance to an anesthesiologist assistant with substance abuse problems, a representative or agent of such a committee or program, a representative or agent of the monitoring organization described in section 4731.251 of the Revised Code, and a member of the state medical board shall not be held liable in damages to any person by reason of actions taken to refer an anesthesiologist assistant to a treatment provider approved under section 4731.25 of the Revised Code for examination or treatment.

**Sec. 4760.18.** The attorney general, the prosecuting attorney of any county in which the offense was committed or the offender resides, the state medical board, or any other person having knowledge of a person engaged either directly or by complicity in practicing as an anesthesiologist assistant without having first obtained a certificate to practice pursuant to this chapter, may, in accordance with provisions of the Revised Code governing injunctions, maintain an action in the name of the state to enjoin any person from engaging either directly or by complicity in unlawfully practicing as an anesthesiologist assistant by applying for an injunction in any court of competent jurisdiction.

Prior to application for an injunction, the secretary of the state medical board shall notify the person allegedly engaged either directly or by complicity in the unlawful practice by registered mail that the secretary has received information indicating that this person is so engaged. The person shall answer the secretary within thirty days showing that the person is either properly licensed for the stated activity or that the person is not in violation of this chapter. If the answer is not forthcoming within thirty days after notice by the secretary, the secretary shall request that the attorney general, the prosecuting attorney of the county in which the offense was committed or the offender resides, or the state medical board proceed as authorized in this section.

Upon the filing of a verified petition in court, the court shall conduct a hearing on the petition and shall give the same preference to this proceeding as is given all proceedings under Chapter 119. of the Revised Code, irrespective of the position of the proceeding on the calendar of the court.

Injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter.

**Sec. 4762.06.** (A) A person seeking to renew a certificate to practice as an oriental medicine practitioner or certificate to practice as an acupuncturist shall, on or before the thirty-first day of January of each even-numbered year, apply for renewal of the certificate. The state medical board shall provide renewal notices at least one month prior to the expiration date.

Applications shall be submitted to the board in a manner prescribed by the board. Each application shall be accompanied by a biennial renewal fee of one hundred dollars.

The applicant shall report any criminal offense that constitutes grounds for refusing to issue a

certificate under section 4762.13 of the Revised Code to which the applicant has pleaded guilty, of which the applicant has been found guilty, or for which the applicant has been found eligible for intervention in lieu of conviction, since last signing an application for a certificate to practice as an oriental medicine practitioner or certificate to practice as an acupuncturist.

(B)(1) To be eligible for renewal of a certificate to practice as an oriental medicine practitioner, an applicant shall certify to the board both of the following, as applicable:

(a) That the applicant has maintained a current and active designation from the national certification commission for acupuncture and oriental medicine as either a diplomate in oriental medicine or diplomate of acupuncture and Chinese herbology;

(b) That the applicant has successfully completed one six-hour course in herb and drug interaction approved by the national certification commission for acupuncture and oriental medicine in the four years immediately preceding the expiration date of the applicant's current and active designation from the commission as a diplomate in oriental medicine or diplomate of acupuncture and Chinese herbology.

(2) To be eligible for renewal of a certificate to practice as an acupuncturist, an applicant shall certify to the board that the acupuncturist has maintained a current and active designation from the national certification commission for acupuncture and oriental medicine as a diplomate in acupuncture.

(C) If an applicant submits a complete renewal application and qualifies for renewal pursuant to division (B) of this section, the board shall issue to the applicant a renewed certificate to practice.

(D) A certificate to practice that is not renewed on or before its expiration date is automatically suspended on its expiration date. If a certificate has been suspended pursuant to this division for two years or less, the board shall reinstate the certificate upon an applicant's submission of a renewal application, the biennial renewal fee, and the applicable monetary penalty. The penalty for reinstatement is twenty-five dollars. If a certificate has been suspended pursuant to this division for more than two years, it may be restored upon an applicant's submission of a restoration application, the biennial renewal fee, and the applicable monetary penalty and compliance with sections 4776.01 to 4776.04 of the Revised Code. The board shall not restore a certificate to practice unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a certificate issued pursuant to section 4762.04 of the Revised Code. The penalty for restoration is fifty dollars.

**Sec. 4762.13.** (A) The state medical board, by an affirmative vote of not fewer than six members, may revoke or may refuse to grant a certificate to practice as an oriental medicine practitioner or certificate to practice as an acupuncturist to a person found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the certificate.

(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice, refuse to issue a certificate to an applicant, refuse to renew a certificate, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for any of the following reasons:

(1) Permitting the holder's name or certificate to be used by another person;

(2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;



(3) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board;

(4) A departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances whether or not actual injury to the patient is established;

(5) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;

(6) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;

(7) Willfully betraying a professional confidence;

(8) Making a false, fraudulent, deceptive, or misleading statement in soliciting or advertising for patients or in securing or attempting to secure a certificate to practice as an oriental medicine practitioner or certificate to practice as an acupuncturist.

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(9) Representing, with the purpose of obtaining compensation or other advantage personally or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured;

(10) The obtaining of, or attempting to obtain, money or a thing of value by fraudulent misrepresentations in the course of practice;

(11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;

(12) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;

(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;

(14) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;

(15) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(16) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(17) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for violating any state or federal law regulating the possession, distribution, or use of any drug, including trafficking in drugs;

(18) Any of the following actions taken by the state agency responsible for regulating the

practice of oriental medicine or acupuncture in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(19) Violation of the conditions placed by the board on a certificate to practice as an oriental medicine practitioner or certificate to practice as an acupuncturist;

(20) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code;

(21) Failure to cooperate in an investigation conducted by the board under section 4762.14 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(22) Failure to comply with the standards of the national certification commission for acupuncture and oriental medicine regarding professional ethics, commitment to patients, commitment to the profession, and commitment to the public;

(23) Failure to have adequate professional liability insurance coverage in accordance with section 4762.22 of the Revised Code;

(24) Failure to maintain a current and active designation as a diplomate in oriental medicine, diplomate of acupuncture and Chinese herbology, or diplomate in acupuncture, as applicable, from the national certification commission for acupuncture and oriental medicine, including revocation by the commission of the individual's designation, failure by the individual to meet the commission's requirements for redesignation, or failure to notify the board that the appropriate designation has not been maintained.

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an oriental medicine practitioner or acupuncturist or applicant to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.

(D) For purposes of divisions (B)(12), (15), and (16) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the applicant or certificate holder committed the act in question. The board shall have no jurisdiction under these divisions in cases where the trial court renders a final judgment in the certificate holder's favor and that judgment is based upon an adjudication on the merits. The board shall have jurisdiction under these divisions in cases where the trial court issues an order of dismissal upon technical or procedural grounds.

(E) The sealing of conviction records by any court shall have no effect upon a prior board order entered under the provisions of this section or upon the board's jurisdiction to take action under

the provisions of this section if, based upon a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing or entered into a consent agreement prior to the court's order to seal the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

(F) For purposes of this division, any individual who holds a certificate to practice issued under this chapter, or applies for a certificate to practice, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(1) In enforcing division (B)(5) of this section, the board, upon a showing of a possible violation, may compel any individual who holds a certificate to practice issued under this chapter or who has applied for a certificate pursuant to this chapter to submit to a mental examination, physical examination, including an HIV test, or both a mental and physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an oriental medicine practitioner or acupuncturist unable to practice because of the reasons set forth in division (B)(5) of this section, the board shall require the individual to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for an initial, continued, reinstated, or renewed certificate to practice. An individual affected by this division shall be afforded an opportunity to demonstrate to the board the ability to resume practicing in compliance with acceptable and prevailing standards of care.

(2) For purposes of division (B)(6) of this section, if the board has reason to believe that any individual who holds a certificate to practice issued under this chapter or any applicant for a certificate suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician qualified to conduct such examination and chosen by the board.

Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's certificate or deny the individual's application and shall require the individual, as a condition for an initial, continued, reinstated, or renewed certificate, to submit to treatment.

Before being eligible to apply for reinstatement of a certificate suspended under this division, the oriental medicine practitioner or acupuncturist shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care. The demonstration

shall include the following:

(a) Certification from a treatment provider approved under section 4731.25 of the Revised Code that the individual has successfully completed any required inpatient treatment;

(b) Evidence of continuing full compliance with an aftercare contract or consent agreement;

(c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making such assessments and shall describe the basis for their determination.

The board may reinstate a certificate suspended under this division after such demonstration and after the individual has entered into a written consent agreement.

When the impaired individual resumes practice, the board shall require continued monitoring of the individual. The monitoring shall include monitoring of compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of falsification stating whether the individual has maintained sobriety.

(G) If the secretary and supervising member determine both of the following, they may recommend that the board suspend an individual's certificate to practice without a prior hearing:

(1) That there is clear and convincing evidence that an oriental medicine practitioner or acupuncturist has violated division (B) of this section;

(2) That the individual's continued practice presents a danger of immediate and serious harm to the public.

Written allegations shall be prepared for consideration by the board. The board, upon review of the allegations and by an affirmative vote of not fewer than six of its members, excluding the secretary and supervising member, may suspend a certificate without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the summary suspension.

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the oriental medicine practitioner or acupuncturist requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the hearing is requested, unless otherwise agreed to by both the board and the certificate holder.

A summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within sixty days after completion of its hearing. Failure to issue the order within sixty days shall result in dissolution of the summary suspension order, but shall not invalidate any subsequent, final adjudicative order.

(H) If the board takes action under division (B)(11), (13), or (14) of this section, and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, upon exhaustion of the criminal appeal, a petition for

reconsideration of the order may be filed with the board along with appropriate court documents. Upon receipt of a petition and supporting court documents, the board shall reinstate the certificate to practice. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of opportunity for hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act, or if no hearing is requested, it may order any of the sanctions specified in division (B) of this section.

(I) The certificate to practice of an oriental medicine practitioner or acupuncturist and the practitioner's or acupuncturist's practice in this state are automatically suspended as of the date the practitioner or acupuncturist pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after the suspension shall be considered practicing without a certificate.

The board shall notify the individual subject to the suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose certificate is suspended under this division fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the board shall enter a final order permanently revoking the individual's certificate to practice.

(J) In any instance in which the board is required by Chapter 119. of the Revised Code to give notice of opportunity for hearing and the individual subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In the final order, the board may order any of the sanctions identified under division (A) or (B) of this section.

(K) Any action taken by the board under division (B) of this section resulting in a suspension shall be accompanied by a written statement of the conditions under which the certificate to practice may be reinstated. The board shall adopt rules in accordance with Chapter 119. of the Revised Code governing conditions to be imposed for reinstatement. Reinstatement of a certificate suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board.

(L) When the board refuses to grant or issue a certificate to practice to an applicant, revokes an individual's certificate, refuses to renew an individual's certificate, or refuses to reinstate an individual's certificate, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice as an oriental medicine practitioner or certificate to practice as an acupuncturist and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.

(M) Notwithstanding any other provision of the Revised Code, all of the following apply:

(1) The surrender of a certificate to practice as an oriental medicine practitioner or certificate to practice as an acupuncturist issued under this chapter is not effective unless or until accepted by

the board. Reinstatement of a certificate surrendered to the board requires an affirmative vote of not fewer than six members of the board.

(2) An application made under this chapter for a certificate may not be withdrawn without approval of the board.

(3) Failure by an individual to renew a certificate in accordance with section 4762.06 of the Revised Code shall not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.

**Sec. 4762.133.**

**Sec. 4763.01.** As used in this chapter:

(A) "Real estate appraisal" or "appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of identified real estate that is classified as either a valuation or an analysis.

(B) "Valuation" means an estimate of the value of real estate.

(C) "Analysis" means a study of real estate for purposes other than valuation.

(D) "Appraisal report" means a written communication of a real estate appraisal or appraisal review, or an oral communication of a real estate appraisal or appraisal review, that is documented by a writing that supports the oral communication.

(E) "Appraisal assignment" means an engagement for which a person licensed or certified under this chapter is employed, retained, or engaged to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased real estate appraisal.

(F) "Specialized services" means all appraisal services, other than appraisal assignments, including, but not limited to, valuation and analysis given in connection with activities such as real estate brokerage, mortgage banking, real estate counseling, and real estate tax counseling, and specialized marketing, financing, and feasibility studies.

(G) "Real estate" has the same meaning as in section 4735.01 of the Revised Code.

(H) "Appraisal foundation" means a nonprofit corporation incorporated under the laws of the state of Illinois on November 30, 1987, for the purposes of establishing and improving uniform appraisal standards by defining, issuing, and promoting those standards; establishing appropriate criteria for the certification and recertification of qualified appraisers by defining, issuing, and promoting the qualification criteria and disseminating the qualification criteria to others; and developing or assisting in development of appropriate examinations for qualified appraisers.

(I) "Prepare" means to develop and communicate, whether through a personal physical inspection or through the act or process of critically studying a report prepared by another who made the physical inspection, an appraisal, analysis, or opinion, or specialized service and to report the results. If the person who develops and communicates the appraisal or specialized service does not make the personal inspection, the name of the person who does make the personal inspection shall be identified on the appraisal or specialized service reported.

(J) "Report" means any communication, written, oral, or by any other means of transmission of information, of a real estate appraisal, appraisal review, or specialized service that is transmitted to a client or employer upon completion of the appraisal or service.

(K) "State-certified general real estate appraiser" means any person who satisfies the certification requirements of this chapter relating to the appraisal of all types of real property and

who holds a current and valid certificate or renewal certificate issued to the person pursuant to this chapter.

(L) "State-certified residential real estate appraiser" means any person who satisfies the certification requirements only relating to the appraisal of one to four units of single-family residential real estate without regard to transaction value or complexity and who holds a current and valid certificate or renewal certificate issued to the person pursuant to this chapter.

(M) "State-licensed residential real estate appraiser" means any person who satisfies the licensure requirements of this chapter relating to the appraisal of noncomplex one-to-four unit single-family residential real estate having a transaction value of less than one million dollars and complex one-to-four unit single-family residential real estate having a transaction value of less than two hundred fifty thousand dollars and who holds a current and valid license or renewal license issued to the person pursuant to this chapter.

(N) "Certified or licensed real estate appraisal" means an appraisal prepared and reported by a certificate holder or licensee under this chapter acting within the scope of certification or licensure and as a disinterested third party.

(O) "State-registered real estate appraiser assistant" means any person, other than a state-certified general real estate appraiser, state-certified residential real estate appraiser, or a state-licensed residential real estate appraiser, who satisfies the registration requirements of this chapter for participating in the development and preparation of real estate appraisals and who holds a current and valid registration or renewal registration issued to the person pursuant to this chapter.

(P) "Institution of higher education" means a state university or college, a private college or university located in this state that possesses a certificate of authorization issued by the chancellor of higher education pursuant to Chapter 1713. of the Revised Code, or an accredited college or university located outside this state that is accredited by an accrediting organization or professional accrediting association recognized by the chancellor of higher education.

(Q) "Division of real estate" may be used interchangeably with, and for all purposes has the same meaning as, "division of real estate and professional licensing."

(R) "Superintendent" or "superintendent of real estate" means the superintendent of the division of real estate and professional licensing of this state. Whenever the division or superintendent of real estate is referred to or designated in any statute, rule, contract, or other document, the reference or designation shall be deemed to refer to the division or superintendent of real estate and professional licensing, as the case may be.

(S) "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal or appraisal review.

(T) "Work file" means documentation used during the preparation of an appraisal report or necessary to support an appraiser's analyses, opinions, or conclusions.

**Sec. 4763.07.** (A) Every state-certified general real estate appraiser, state-certified residential real estate appraiser and state-licensed residential real estate appraiser shall submit proof of successfully completing a minimum of fourteen classroom hours of continuing education instruction in courses or seminars approved by the real estate appraiser board. The certificate holder and licensee shall have satisfied the fourteen-hour continuing education requirements within the one-year period

immediately following the issuance of the initial certificate or license and shall satisfy those requirements annually thereafter.

In accordance with federal law, each state-registered real estate appraiser assistant shall submit proof of successfully completing a minimum of fourteen classroom hours of continuing education instruction in courses or seminars approved by the real estate appraiser board. Each registrant shall satisfy the fourteen-hour continuing education requirements annually.

This division does not apply to an appraiser with a certification or license from another state that is temporarily recognized in this state pursuant to division (E)(2) of section 4763.05 of the Revised Code.

A certificate holder, licensee, or registrant who fails to submit proof to the superintendent of meeting these requirements is ineligible to obtain a renewal certificate, license, or registration and shall comply with section 4763.05 of the Revised Code in order to regain a certificate, license, or registration, except that the certificate holder, licensee, or registrant may submit proof to the superintendent of meeting these requirements within three months after the date of expiration of the certificate, license, or registration, or by obtaining a medical exception under division (E) of this section, without having to comply with section 4763.05 of the Revised Code. A certificate holder, licensee, or registrant may not engage in any activities permitted by the certificate, license, or registration during the three-month period following the certificate's, license's, or registration's normal expiration date or during the time period for which a medical exception applies.

A certificate holder, licensee, or registrant may satisfy all or a portion of the required hours of classroom instruction in the following manner:

(1) Completion of an educational program of study determined by the board to be equivalent, for continuing education purposes, to courses or seminars approved by the board;

(2) Participation, other than as a student, in educational processes or programs approved by the board that relate to real estate appraisal theory, practices, or techniques.

A certificate holder, licensee, or registrant shall present to the superintendent of real estate evidence of the manner in which the certificate holder, licensee, or registrant satisfied the requirements of division (A) of this section.

(B) The board shall adopt rules for implementing a continuing education program for state-certified general real estate appraisers, state-certified residential real estate appraisers, state-licensed residential real estate appraisers, and state-registered real estate appraiser assistants for the purpose of assuring that certificate holders, licensees, and registrants have current knowledge of real estate appraisal theories, practices, and techniques that will provide a high degree of service and protection to members of the public. In addition to any other provisions the board considers appropriate, the rules adopted by the board shall prescribe the following:

(1) Policies and procedures for obtaining board approval of courses of instruction and seminars;

(2) Standards, policies, and procedures to be applied in evaluating the alternative methods of complying with continuing education requirements set forth in divisions (A)(1) and (2) of this section;

(3) Standards, monitoring methods, and systems for recording attendance to be employed by course sponsors as a prerequisite to approval of courses for continuing education credit.



(C) No amendment or rescission of a rule the board adopts pursuant to division (B) of this section shall operate to deprive a certificate holder or licensee of credit toward renewal of certification or licensure for any course of instruction completed by the certificate holder or licensee prior to the effective date of the amendment or rescission that would have qualified for credit under the rule as it existed prior to amendment or rescission.

(D) The superintendent of real estate shall not issue a renewal certificate, registration, or license to any person who does not meet applicable minimum criteria for state certification, registration, or licensure prescribed by federal law or rule.

(E) The superintendent may grant a medical exception upon application by a person certified, registered, or licensed under this chapter. To receive an exception, the certificate holder, registrant, or licensee shall submit a request to the superintendent with proof satisfactory that a medical exception is warranted. If the superintendent makes a determination that satisfactory proof has not been presented, within fifteen days of the date of the denial of the medical exception, the certificate holder, registrant, or licensee may file with the division of real estate a request that the real estate appraiser board review the determination. The board may adopt reasonable rules in accordance with Chapter 119. of the Revised Code to implement this division.

**Sec. 4765.161.**

**Sec. 4765.361.**

**Sec. 4774.06.** (A) An individual seeking to renew a certificate to practice as a radiologist assistant shall, on or before the thirty-first day of January of each even-numbered year, apply for renewal of the certificate. The state medical board shall provide renewal notices at least one month prior to the expiration date.

Renewal applications shall be submitted to the board in a manner prescribed by the board. Each application shall be accompanied by a biennial renewal fee specified by the board in rules adopted under section 4774.11 of the Revised Code.

The applicant shall report any criminal offense that constitutes grounds for refusing to issue a certificate under section 4774.13 of the Revised Code to which the applicant has pleaded guilty, of which the applicant has been found guilty, or for which the applicant has been found eligible for intervention in lieu of conviction, since last signing an application for a certificate to practice as a radiologist assistant.

(B) To be eligible for renewal, a radiologist assistant shall certify to the board that the assistant has maintained both of the following:

- (1) A license as a radiographer under Chapter 4773. of the Revised Code;
- (2) Certification as a registered radiologist assistant from the American registry of radiologic technologists by meeting the registry's requirements for annual registration, including completion of the continuing education requirements established by the registry.

(C) If an applicant submits a renewal application that the board considers to be complete and qualifies for renewal pursuant to division (B) of this section, the board shall issue to the applicant a renewed certificate to practice as a radiologist assistant.

(D) A certificate to practice that is not renewed on or before its expiration date is automatically suspended on its expiration date, subject to the provisions of section 119.06 of the Revised Code specifying that an applicant who appropriately files a renewal application is not

required to discontinue practicing merely because the board has failed to act on the application. If a certificate has been suspended pursuant to this division for two years or less, the board shall reinstate the certificate upon an applicant's submission of a renewal application, the biennial renewal fee, and the applicable monetary penalty. The penalty for reinstatement is twenty-five dollars. If a certificate has been suspended pursuant to this division for more than two years, it may be restored upon an applicant's submission of a restoration application, the biennial renewal fee, and the applicable monetary penalty and compliance with sections 4776.01 to 4776.04 of the Revised Code. The board shall not restore a certificate unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a certificate issued pursuant to section 4774.04 of the Revised Code. The penalty for restoration is fifty dollars.

**Sec. 4774.13.** (A) The state medical board, by an affirmative vote of not fewer than six members, may revoke or may refuse to grant a certificate to practice as a radiologist assistant to an individual found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the certificate.

(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice as a radiologist assistant, refuse to issue a certificate to an applicant, refuse to renew a certificate, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for any of the following reasons:

- (1) Permitting the holder's name or certificate to be used by another person;
- (2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;
- (3) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board;
- (4) A departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances whether or not actual injury to the patient is established;
- (5) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;
- (6) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;
- (7) Willfully betraying a professional confidence;
- (8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a certificate to practice as a radiologist assistant.

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(9) The obtaining of, or attempting to obtain, money or a thing of value by fraudulent misrepresentations in the course of practice;

(10) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;

(11) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;

(12) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;

(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;

(14) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(15) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(16) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for violating any state or federal law regulating the possession, distribution, or use of any drug, including trafficking in drugs;

(17) Any of the following actions taken by the state agency responsible for regulating the practice of radiologist assistants in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(18) Violation of the conditions placed by the board on a certificate to practice as a radiologist assistant;

(19) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code;

(20) Failure to cooperate in an investigation conducted by the board under section 4774.14 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(21) Failure to maintain a license as a radiographer under Chapter 4773. of the Revised Code;

(22) Failure to maintain certification as a registered radiologist assistant from the American registry of radiologic technologists, including revocation by the registry of the assistant's certification or failure by the assistant to meet the registry's requirements for annual registration, or failure to notify the board that the certification as a registered radiologist assistant has not been maintained;

(23) Failure to comply with any of the rules of ethics included in the standards of ethics established by the American registry of radiologic technologists, as those rules apply to an individual who holds the registry's certification as a registered radiologist assistant.

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an

adjudication, the board may enter into a consent agreement with a radiologist assistant or applicant to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.

(D) For purposes of divisions (B)(11), (14), and (15) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the applicant or certificate holder committed the act in question. The board shall have no jurisdiction under these divisions in cases where the trial court renders a final judgment in the certificate holder's favor and that judgment is based upon an adjudication on the merits. The board shall have jurisdiction under these divisions in cases where the trial court issues an order of dismissal on technical or procedural grounds.

(E) The sealing of conviction records by any court shall have no effect on a prior board order entered under the provisions of this section or on the board's jurisdiction to take action under the provisions of this section if, based upon a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing prior to the court's order to seal the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

(F) For purposes of this division, any individual who holds a certificate to practice as a radiologist assistant issued under this chapter, or applies for a certificate to practice, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(1) In enforcing division (B)(5) of this section, the board, on a showing of a possible violation, may compel any individual who holds a certificate to practice as a radiologist assistant issued under this chapter or who has applied for a certificate to practice to submit to a mental or physical examination, or both. A physical examination may include an HIV test. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds a radiologist assistant unable to practice because of the reasons set forth in division (B)(5) of this section, the board shall require the radiologist assistant to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for an initial, continued, reinstated, or renewed certificate to practice. An individual affected by this division shall be afforded an opportunity to demonstrate to the board the ability to resume practicing in compliance with acceptable and prevailing standards of care.

(2) For purposes of division (B)(6) of this section, if the board has reason to believe that any individual who holds a certificate to practice as a radiologist assistant issued under this chapter or any applicant for a certificate to practice suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is

the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician qualified to conduct such examination and chosen by the board.

Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's certificate or deny the individual's application and shall require the individual, as a condition for an initial, continued, reinstated, or renewed certificate to practice, to submit to treatment.

Before being eligible to apply for reinstatement of a certificate suspended under this division, the radiologist assistant shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care. The demonstration shall include the following:

(a) Certification from a treatment provider approved under section 4731.25 of the Revised Code that the individual has successfully completed any required inpatient treatment;

(b) Evidence of continuing full compliance with an aftercare contract or consent agreement;

(c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making such assessments and shall describe the basis for their determination.

The board may reinstate a certificate suspended under this division after such demonstration and after the individual has entered into a written consent agreement.

When the impaired radiologist assistant resumes practice, the board shall require continued monitoring of the radiologist assistant. The monitoring shall include monitoring of compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, on termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of falsification stating whether the radiologist assistant has maintained sobriety.

(G) If the secretary and supervising member determine that there is clear and convincing evidence that a radiologist assistant has violated division (B) of this section and that the individual's continued practice presents a danger of immediate and serious harm to the public, they may recommend that the board suspend the individual's certificate to practice without a prior hearing. Written allegations shall be prepared for consideration by the board.

The board, on review of the allegations and by an affirmative vote of not fewer than six of its members, excluding the secretary and supervising member, may suspend a certificate without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the summary suspension.

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the radiologist assistant requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the radiologist assistant requests the

hearing, unless otherwise agreed to by both the board and the certificate holder.

A summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within sixty days after completion of its hearing. Failure to issue the order within sixty days shall result in dissolution of the summary suspension order, but shall not invalidate any subsequent, final adjudicative order.

(H) If the board takes action under division (B)(10), (12), or (13) of this section, and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, on exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. On receipt of a petition and supporting court documents, the board shall reinstate the certificate to practice as a radiologist assistant. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of opportunity for hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act, or if no hearing is requested, it may order any of the sanctions specified in division (B) of this section.

(I) The certificate to practice of a radiologist assistant and the assistant's practice in this state are automatically suspended as of the date the radiologist assistant pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment of intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after the suspension shall be considered practicing without a certificate.

The board shall notify the individual subject to the suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose certificate is suspended under this division fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the board shall enter a final order permanently revoking the individual's certificate to practice.

(J) In any instance in which the board is required by Chapter 119. of the Revised Code to give notice of opportunity for hearing and the individual subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In the final order, the board may order any of the sanctions identified under division (A) or (B) of this section.

(K) Any action taken by the board under division (B) of this section resulting in a suspension shall be accompanied by a written statement of the conditions under which the radiologist assistant's certificate may be reinstated. The board shall adopt rules in accordance with Chapter 119. of the Revised Code governing conditions to be imposed for reinstatement. Reinstatement of a certificate

suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board.

(L) When the board refuses to grant or issue a certificate to practice as a radiologist assistant to an applicant, revokes an individual's certificate, refuses to renew an individual's certificate, or refuses to reinstate an individual's certificate, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice as a radiologist assistant and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.

(M) Notwithstanding any other provision of the Revised Code, all of the following apply:

(1) The surrender of a certificate to practice as a radiologist assistant issued under this chapter is not effective unless or until accepted by the board. Reinstatement of a certificate surrendered to the board requires an affirmative vote of not fewer than six members of the board.

(2) An application made under this chapter for a certificate to practice may not be withdrawn without approval of the board.

(3) Failure by an individual to renew a certificate to practice in accordance with section 4774.06 of the Revised Code shall not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.

**Sec. 4774.133.**

**Sec. 4778.06.** (A) An individual seeking to renew a license to practice as a genetic counselor shall, on or before the thirty-first day of January of each even-numbered year, apply for renewal of the license. The state medical board shall provide renewal notices at least one month prior to the expiration date.

Renewal applications shall be submitted to the board in a manner prescribed by the board. Each application shall be accompanied by a biennial renewal fee of one hundred fifty dollars.

The applicant shall report any criminal offense to which the applicant has pleaded guilty, of which the applicant has been found guilty, or for which the applicant has been found eligible for intervention in lieu of conviction, since last signing an application for a license to practice as a genetic counselor.

(B) To be eligible for renewal, a genetic counselor shall certify to the board that the counselor has done both of the following:

(1) Maintained the counselor's status as a certified genetic counselor;

(2) Completed at least thirty hours of continuing education in genetic counseling that has been approved by the national society of genetic counselors or American board of genetic counseling.

(C) If an applicant submits a renewal application that the board considers to be complete and qualifies for renewal pursuant to division (B) of this section, the board shall issue to the applicant a renewed license to practice as a genetic counselor.

(D) The board may require a random sample of genetic counselors to submit materials documenting that their status as certified genetic counselors has been maintained and that the number of hours of continuing education required under division (B)(2) of this section has been completed.

If a genetic counselor certifies that the genetic counselor has completed the number of hours and type of continuing education required for renewal of a license, and the board finds through the random sample or any other means that the genetic counselor did not complete the requisite

continuing education, the board may impose a civil penalty of not more than five thousand dollars. If a civil penalty is imposed in addition to any other action the board takes under section 4778.14 of the Revised Code, the board's finding shall be made pursuant to an adjudication under Chapter 119. of the Revised Code and by an affirmative vote of not fewer than six members. A civil penalty imposed under this division may be in addition to or in lieu of any other action the board may take under section 4778.14 of the Revised Code. The board shall deposit civil penalties in accordance with section 4731.24 of the Revised Code.

**Sec. 4778.14.** (A) The state medical board, by an affirmative vote of not fewer than six members, may revoke or may refuse to grant a license to practice as a genetic counselor to an individual found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the license.

(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's license to practice as a genetic counselor, refuse to issue a license to an applicant, refuse to renew a license, refuse to reinstate a license, or reprimand or place on probation the holder of a license for any of the following reasons:

- (1) Permitting the holder's name or license to be used by another person;
- (2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;
- (3) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board;
- (4) A departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances whether or not actual injury to the patient is established;
- (5) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;
- (6) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;
- (7) Willfully betraying a professional confidence;
- (8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a license to practice as a genetic counselor.

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(9) The obtaining of, or attempting to obtain, money or a thing of value by fraudulent misrepresentations in the course of practice;

(10) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;



(11) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;

(12) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;

(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;

(14) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(15) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(16) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for violating any state or federal law regulating the possession, distribution, or use of any drug, including trafficking in drugs;

(17) Any of the following actions taken by an agency responsible for authorizing, certifying, or regulating an individual to practice a health care occupation or provide health care services in this state or in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(18) Violation of the conditions placed by the board on a license to practice as a genetic counselor;

(19) Failure to cooperate in an investigation conducted by the board under section 4778.18 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(20) Failure to maintain the individual's status as a certified genetic counselor;

(21) Failure to comply with the code of ethics established by the national society of genetic counselors.

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with a genetic counselor or applicant to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.

A telephone conference call may be utilized for ratification of a consent agreement that revokes or suspends an individual's license. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code.

(D) For purposes of divisions (B)(11), (14), and (15) of this section, the commission of the

act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the applicant or license holder committed the act in question. The board shall have no jurisdiction under these divisions in cases where the trial court renders a final judgment in the license holder's favor and that judgment is based upon an adjudication on the merits. The board shall have jurisdiction under these divisions in cases where the trial court issues an order of dismissal on technical or procedural grounds.

(E) The sealing of conviction records by any court shall have no effect on a prior board order entered under the provisions of this section or on the board's jurisdiction to take action under the provisions of this section if, based upon a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing or took other formal action under Chapter 119. of the Revised Code prior to the court's order to seal the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

(F) For purposes of this division, any individual who holds a license to practice as a genetic counselor, or applies for a license, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(1) In enforcing division (B)(5) of this section, the board, on a showing of a possible violation, may compel any individual who holds a license to practice as a genetic counselor or who has applied for a license to practice as a genetic counselor to submit to a mental or physical examination, or both. A physical examination may include an HIV test. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds a genetic counselor unable to practice because of the reasons set forth in division (B)(5) of this section, the board shall require the genetic counselor to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for an initial, continued, reinstated, or renewed license to practice. An individual affected by this division shall be afforded an opportunity to demonstrate to the board the ability to resume practicing in compliance with acceptable and prevailing standards of care.

(2) For purposes of division (B)(6) of this section, if the board has reason to believe that any individual who holds a license to practice as a genetic counselor or any applicant for a license suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician qualified to conduct such examination and chosen by the board.

Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board determines that the individual's ability to practice is

impaired, the board shall suspend the individual's license or deny the individual's application and shall require the individual, as a condition for an initial, continued, reinstated, or renewed license, to submit to treatment.

Before being eligible to apply for reinstatement of a license suspended under this division, the genetic counselor shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care. The demonstration shall include the following:

(a) Certification from a treatment provider approved under section 4731.25 of the Revised Code that the individual has successfully completed any required inpatient treatment;

(b) Evidence of continuing full compliance with an aftercare contract or consent agreement;

(c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making such assessments and shall describe the basis for their determination.

The board may reinstate a license suspended under this division after such demonstration and after the individual has entered into a written consent agreement.

When the impaired genetic counselor resumes practice, the board shall require continued monitoring of the genetic counselor. The monitoring shall include monitoring of compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, on termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of falsification stating whether the genetic counselor has maintained sobriety.

(G) If the secretary and supervising member determine both of the following, they may recommend that the board suspend an individual's license to practice without a prior hearing:

(1) That there is clear and convincing evidence that a genetic counselor has violated division (B) of this section;

(2) That the individual's continued practice presents a danger of immediate and serious harm to the public.

Written allegations shall be prepared for consideration by the board. The board, on review of the allegations and by an affirmative vote of not fewer than six of its members, excluding the secretary and supervising member, may suspend a license without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the summary suspension.

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the genetic counselor requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the genetic counselor requests the hearing, unless otherwise agreed to by both the board and the genetic counselor.

A summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within sixty days after completion of its hearing. Failure to issue the order within sixty days shall result in

dissolution of the summary suspension order, but shall not invalidate any subsequent, final adjudicative order.

(H) If the board takes action under division (B)(10), (12), or (13) of this section, and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, on exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. On receipt of a petition and supporting court documents, the board shall reinstate the license to practice as a genetic counselor. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of opportunity for hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act, or if no hearing is requested, it may order any of the sanctions specified in division (B) of this section.

(I) The license to practice as a genetic counselor and the counselor's practice in this state are automatically suspended as of the date the genetic counselor pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment of intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after the suspension shall be considered practicing without a license.

The board shall notify the individual subject to the suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose license is suspended under this division fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the board shall enter a final order permanently revoking the individual's license to practice.

(J) In any instance in which the board is required by Chapter 119. of the Revised Code to give notice of opportunity for hearing and the individual subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In the final order, the board may order any of the sanctions identified under division (A) or (B) of this section.

(K) Any action taken by the board under division (B) of this section resulting in a suspension shall be accompanied by a written statement of the conditions under which the license of the genetic counselor may be reinstated. The board shall adopt rules in accordance with Chapter 119. of the Revised Code governing conditions to be imposed for reinstatement. Reinstatement of a license suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board.

(L) When the board refuses to grant or issue a license to practice as a genetic counselor to an applicant, revokes an individual's license, refuses to renew an individual's license, or refuses to reinstate an individual's license, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a license to

practice as a genetic counselor and the board shall not accept an application for reinstatement of the license or for issuance of a new license.

(M) Notwithstanding any other provision of the Revised Code, all of the following apply:

(1) The surrender of a license to practice as a genetic counselor is not effective unless or until accepted by the board. A telephone conference call may be utilized for acceptance of the surrender of an individual's license. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code. Reinstatement of a license surrendered to the board requires an affirmative vote of not fewer than six members of the board.

(2) An application made under this chapter for a license to practice may not be withdrawn without approval of the board.

(3) Failure by an individual to renew a license in accordance with section 4778.06 of the Revised Code shall not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.

**Sec. 4778.141.**

**Sec. 4905.71.** (A) Every telephone or electric light company that is a public utility as defined by section 4905.02 of the Revised Code and, subject to section 4927.15 of the Revised Code, every incumbent local exchange carrier as defined by section 4927.01 of the Revised Code shall permit, upon reasonable terms and conditions and the payment of reasonable charges, the attachment of any wire, cable, facility, or apparatus to its poles, pedestals, or placement of same in conduit duct space, by any person or entity other than a public utility that is authorized and has obtained, under law, any necessary public or private authorization and permission to construct and maintain the attachment, so long as the attachment does not interfere, obstruct, or delay the service and operation of the company or carrier, or create a hazard to safety. Every such company or carrier shall file tariffs with the public utilities commission containing the charges, terms, and conditions established for such use.

(B) The commission shall regulate the justness and reasonableness of the charges, terms, and conditions contained in any such tariff, and may, upon complaint of any persons in which it appears that reasonable grounds for complaint are stated, or upon its own initiative, investigate such charges, terms, and conditions and conduct a hearing to establish just and reasonable charges, terms, and conditions, and to resolve any controversy that may arise among the parties as to such attachment.

**Sec. 4905.81.** The public utilities commission shall:

(A) Supervise and regulate each motor carrier;

(B) Regulate the safety of operation of each motor carrier, and of each intermodal equipment provider as defined in section 4923.041 of the Revised Code;

(C) Adopt reasonable safety rules applicable to the highway transportation of persons or property in interstate and intrastate commerce by motor carriers;

(D) Adopt safety rules applicable to the transportation and offering for transportation of hazardous materials in interstate and intrastate commerce by motor carriers. The rules shall not be incompatible with the requirements of the United States department of transportation.

(E) Require the filing of reports and other data by motor carriers;

(F) Adopt reasonable rules for the administration and enforcement of this chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. of the Revised Code applying to each motor carrier in this state;

(G) Supervise and regulate motor carriers in all other matters affecting the relationship between those carriers and the public to the exclusion of all local authorities, except as provided in this section. The commission, in the exercise of the jurisdiction conferred upon it by this chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. of the Revised Code, may adopt rules affecting motor carriers, notwithstanding the provisions of any ordinance, resolution, license, or permit enacted, adopted, or granted by any township, municipal corporation, municipal corporation and county, or county. In case of conflict between any such ordinance, resolution, license, or permit, the order or rule of the commission shall prevail. Local subdivisions may adopt reasonable local police rules within their respective boundaries not inconsistent with those chapters and rules adopted under them.

The commission has jurisdiction to receive, hear, and determine as a question of fact, upon complaint of any party or upon its own motion, and upon not less than fifteen days' notice of the time and place of the hearing and the matter to be heard, whether any corporation, company, association, joint-stock association, person, firm, or copartnership, or their lessees, legal or personal representatives, trustees, or receivers or trustees appointed by any court, is engaged as a motor carrier. The finding of the commission on such a question is a final order that may be reviewed as provided in section 4923.15 of the Revised Code.

**Sec. 4909.161.** (A) Notwithstanding the provisions of Chapters 4905. and 4909. of the Revised Code, the payment of any type of increased excise tax levy shall be considered to be a normal expense incurred by a public utility in the course of rendering service to the public, and may be recovered as such in accordance with an order of the public utilities commission. Any public utility required to pay any such increased excise tax levy may file with the public utilities commission revised rate schedules that will permit full recovery on an interim or permanent basis in its rates, of the amount of any resultant increased tax payments and the commission shall promptly act to approve such schedules.

(B) Notwithstanding Chapters 4905. and 4909. of the Revised Code, the payment of the kilowatt-hour tax imposed by section 5727.81 of the Revised Code shall be considered a normal expense incurred by an electric distribution utility, as defined in section 4928.01 of the Revised Code, in the course of rendering service to the public, and may be recovered as such in accordance with an order of the commission. An electric distribution utility required to pay the kilowatt-hour tax may file with the commission revised rate schedules, consistent with Chapters 4905. and 4909. and division (A)(6) of section 4928.34 of the Revised Code, that will permit full recovery on a permanent basis in its rates, of the amount of any resultant tax payments, after taking into account any reductions of taxes in its rates resulting from Sub. S.B. No. 3 of the 123rd general assembly, and the commission shall act promptly to approve those schedules.

**Sec. 4923.04.** (A) The public utilities commission shall adopt rules applicable to all of the following:

- (1) The transportation of persons or property by motor carriers operating in interstate and intrastate commerce;
- (2) The highway transportation and offering for transportation of hazardous materials by motor carriers, and persons engaging in the highway transportation and offering for transportation of hazardous materials, operating in interstate or intrastate commerce;

(3) The use and interchange of intermodal equipment, as those terms are defined in section 4923.041 of the Revised Code.

(B) The rules adopted under division (A) of this section shall not be incompatible with the requirements of the United States department of transportation.

(C) To achieve the purposes of this chapter and to assist the commission in the performance of any of its powers or duties, the commission, either through the public utilities commissioners or employees authorized by it, may do either or both of the following:

(1) Apply for, and any judge of a court of record of competent jurisdiction may issue, an appropriate search warrant;

(2) Examine under oath, at the offices of the commission, any officer, agent, or employee of any person subject to this chapter. The commission, by subpoena, also may compel the attendance of a witness for the purpose of the examination and, by subpoena duces tecum, may compel the production of all books, contracts, records, and documents that relate to compliance with this chapter or compliance with rules adopted under this chapter.

**Sec. 4923.041.**

**Sec. 4927.01.** (A) As used in this chapter:

(1) "Basic local exchange service" means residential-end-user access to and usage of telephone-company-provided services over a single line or small-business-end-user access to and usage of telephone-company-provided services over the primary access line of service, which in the case of residential and small-business access and usage is not part of a bundle or package of services, that does both of the following:

(a) Enables a customer to originate or receive voice communications within a local service area as that area exists on September 13, 2010, or as that area is changed with the approval of the public utilities commission;

(b) Consists of all of the following services:

(i) Local dial tone service;

(ii) For residential end users, flat-rate telephone exchange service;

(iii) Touch tone dialing service;

(iv) Access to and usage of 9-1-1 services, where such services are available;

(v) Access to operator services and directory assistance;

(vi) Provision of a telephone directory in any reasonable format for no additional charge and a listing in that directory, with reasonable accommodations made for private listings;

(vii) Per call, caller identification blocking services;

(viii) Access to telecommunications relay service; and

(ix) Access to toll presubscription, interexchange or toll providers or both, and networks of other telephone companies.

"Basic local exchange service" excludes any voice service to which customers are transitioned following a withdrawal of basic local exchange service under section 4927.10 of the Revised Code.

(2) "Bundle or package of services" means one or more telecommunications services or other services offered together as one service option at a single price.

(3) "Carrier access" means access to and usage of telephone company-provided facilities that

enable end user customers originating or receiving voice grade, data, or image communications, over a local exchange telephone company network operated within a local service area, to access interexchange or other networks and includes special access.

(4) "Federal poverty level" means the income level represented by the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(5) "Incumbent local exchange carrier" means, with respect to an area, the local exchange carrier that:

(a) On February 8, 1996, provided telephone exchange service in such area; and

(b)(i) On February 8, 1996, was deemed to be a member of the exchange carrier association pursuant to 47 C.F.R. 69.601(b); or

(ii) Is a person or entity that, on or after February 8, 1996, became a successor or assign of a member described in division (A)(5)(b)(i) of this section.

(6) "Internet protocol-enabled services" means any services, capabilities, functionalities, or applications that are provided using internet protocol or a successor protocol to enable an end user to send or receive communications in internet protocol format or a successor format, regardless of how any particular such service is classified by the federal communications commission, and includes voice over internet protocol service.

(7) "Interstate-access component" means the portion of carrier access that is within the jurisdiction of the federal communications commission.

(8) "Local exchange carrier" means any person engaged in the provision of telephone exchange service, or the offering of access to telephone exchange service or facilities for the purpose of originating or terminating telephone toll service.

(9) "Local service area" means the geographic area that may encompass more than one exchange area and within which a telephone customer, by paying the rate for basic local exchange service, may complete calls to other telephone customers without being assessed long distance toll charges.

(10) "Small business" means a nonresidential service customer with three or fewer service access lines.

(11) "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

(12) "Telecommunications carrier" has the same meaning as in the "Telecommunications Act of 1996," 110 Stat. 60, 47 U.S.C. 153.

(13) "Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

(14) "Telephone company" means a company described in division (A) of section 4905.03 of the Revised Code that is a public utility under section 4905.02 of the Revised Code.

(15) "Telephone exchange service" means telecommunications service that is within a



telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and that is covered by the exchange service charge; or comparable service provided through a system of switches, transmission equipment, or other facilities, or combination thereof, by which a customer can originate and terminate a telecommunications service.

(16) "Telephone toll service" means telephone service between stations in different exchange areas for which there is made a separate charge not included in contracts with customers for exchange service.

(17) "Voice over internet protocol service" means a service that enables real-time, two-way, voice communications that originate or terminate from the user's location using internet protocol or a successor protocol, including, but not limited to, any such service that permits an end user to receive calls from and terminate calls to the public switched network.

(18) "Voice service" includes all of the applicable functionalities described in 47 C.F.R. 54.101(a). "Voice service" is not the same as basic local exchange service.

(19) "Wireless service" means federally licensed commercial mobile service as defined in the "Telecommunications Act of 1996," 110 Stat. 61, 151, 153, 47 U.S.C. 332(d) and further defined as commercial mobile radio service in 47 C.F.R. 20.3. Under division (A)(19) of this section, commercial mobile radio service is specifically limited to mobile telephone, mobile cellular telephone, paging, personal communications services, and specialized mobile radio service provided by a common carrier in this state and excludes fixed wireless service.

(20) "Wireless service provider" means a facilities-based provider of wireless service to one or more end users in this state.

(B) The definitions of this section shall be applied consistent with the definitions in the "Telecommunications Act of 1996," 110 Stat. 56, 47 U.S.C. 151 et seq., as amended, and with federal decisions interpreting those definitions.

**Sec. 4927.02.** (A) It is the policy of this state to:

(1) Ensure the availability of adequate basic local exchange service or voice service to citizens throughout the state;

(2) Provide incentives for competing providers of telecommunications service to provide advanced, high-quality telecommunications service to citizens throughout the state;

(3) Rely primarily on market forces, where they exist, to maintain reasonable service levels for telecommunications services at reasonable rates;

(4) Encourage innovation in the telecommunications industry and the deployment of advanced telecommunications services;

(5) Create a regulatory climate that provides incentives to create and maintain high technology jobs for Ohioans;

(6) Promote diversity and options in the supply of telecommunications services and equipment throughout the state;

(7) Recognize the continuing emergence of a competitive telecommunications environment through flexible regulatory treatment of telecommunications services where appropriate;

(8) Consider the regulatory treatment of competing and functionally equivalent services and, to the extent practicable, provide for equivalent regulation of all telephone companies and services;

(9) Not unduly favor or advantage any provider and not unduly disadvantage providers of competing and functionally equivalent services; and

(10) Protect the affordability of telephone service for low-income subscribers through the continuation of federal lifeline assistance programs.

(B) The public utilities commission shall consider the policy set forth in this section in carrying out this chapter.

**Sec. 4927.07.** (A) Except as provided under the notice requirements of section 4927.10 of the Revised Code, a telephone company may withdraw any telecommunications service if it gives at least thirty days' prior notice to the public utilities commission and to its affected customers.

(B) Except as provided under the notice requirements of section 4927.10 of the Revised Code, a telephone company may abandon entirely telecommunications service in this state if it gives at least thirty days' prior notice to the commission, to its wholesale and retail customers, and to any telephone company wholesale provider of its services.

(C) Divisions (A) and (B) of this section do not apply to any of the following:

(1) Pole attachments under section 4905.71 of the Revised Code;

(2) Conduit occupancy under section 4905.71 of the Revised Code;

(3) Interconnection and resale agreements approved under the "Telecommunications Act of 1996," 110 Stat. 56, 47 U.S.C. 151 et seq., as amended.

(D) Except as provided in section 4927.10 of the Revised Code, an incumbent local exchange carrier may not withdraw or abandon basic local exchange service.

(E) Neither a telephone company nor an incumbent local exchange carrier may, without first filing a request with the commission and obtaining commission approval, withdraw any tariff filed with the commission for pole attachments or conduit occupancy under section 4905.71 of the Revised Code or abandon service provided under that section.

**Sec. 4927.10.**

**Sec. 4927.101.**

**Sec. 4927.11.** (A) Except as otherwise provided in this section and section 4927.10 of the Revised Code, an incumbent local exchange carrier shall provide basic local exchange service to all persons or entities in its service area requesting that service, and that service shall be provided on a reasonable and nondiscriminatory basis.

(B)(1) An incumbent local exchange carrier is not obligated to construct facilities and provide basic local exchange service, or any other telecommunications service, to the occupants of multitenant real estate, including, but not limited to, apartments, condominiums, subdivisions, office buildings, or office parks, if the owner, operator, or developer of the multitenant real estate does any of the following to the benefit of any other telecommunications service provider:

(a) Permits only one provider of telecommunications service to install the company's facilities or equipment during the construction or development phase of the multitenant real estate;

(b) Accepts or agrees to accept incentives or rewards that are offered by a telecommunications service provider to the owner, operator, developer, or occupants of the multitenant real estate and are contingent on the provision of telecommunications service by that provider to the occupants, to the exclusion of services provided by other telecommunications service providers;

(c) Collects from the occupants of the multitenant real estate any charges for the provision of telecommunications service to the occupants, including charges collected through rents, fees, or dues.

(2) A carrier not obligated to construct facilities and provide basic local exchange service pursuant to division (B)(1) of this section shall notify the public utilities commission of that fact within one hundred twenty days of receiving knowledge thereof.

(3) The commission by rule may establish a process for determining a necessary successor telephone company to provide service to real estate described in division (B)(1) of this section when the circumstances described in that division cease to exist.

(4) An incumbent local exchange carrier that receives a request from any person or entity to provide service under the circumstances described in division (B)(1) of this section shall, within fifteen days of such receipt, provide notice to the person or entity specifying whether the carrier will provide the requested service. If the carrier provides notice that it will not serve the person or entity, the notice shall describe the person's or entity's right to file a complaint with the commission under section 4927.21 of the Revised Code within thirty days after receipt of the notice. In resolving any such complaint, the commission's determination shall be limited to whether any circumstance described in divisions (B)(1)(a) to (c) of this section exists. Upon a finding by the commission that such a circumstance exists, the complaint shall be dismissed. Upon a finding that such circumstances do not exist, the person's or entity's sole remedy shall be provision by the carrier of the requested service within a reasonable time.

(C) An incumbent local exchange carrier may apply to the commission for a waiver from compliance with division (A) of this section. The application shall include, at a minimum, the reason for the requested waiver, the number of persons or entities who would be impacted by the waiver, and the alternatives that would be available to those persons or entities if the waiver were granted. The incumbent local exchange carrier applying for the waiver shall publish notice of the waiver application one time in a newspaper of general circulation throughout the service area identified in the application and shall provide additional notice to affected persons or entities as required by the commission in rules adopted under this division. The commission's rules shall define "affected" for purposes of this division. The commission shall afford such persons or entities a reasonable opportunity to comment to the commission on the application. This opportunity shall include a public hearing conducted in accordance with rules adopted under this division and conducted in the service area identified in the application. After a reasonable opportunity to comment has been provided, but not later than one hundred twenty days after the application is filed, the commission either shall issue an order granting the waiver if, upon investigation, it finds the waiver to be just, reasonable, and not contrary to the public interest, and that the applicant demonstrates a financial hardship or an unusual technical limitation, or shall issue an order denying the waiver based on a failure to meet those standards and specifying the reasons for the denial. The commission shall adopt rules to implement division (C) of this section.

**Sec. 4927.15.** (A)(1) The rates, terms, and conditions for 9-1-1 service provided in this state by a telephone company or a telecommunications carrier and each of the following provided in this state by a telephone company shall be approved and tariffed in the manner prescribed by rule adopted by the public utilities commission and shall be subject to the applicable laws, including rules or regulations adopted and orders issued by the commission or the federal communications commission:

- (a) N-1-1 services, other than 9-1-1 service;
- (b) Pay telephone access lines;
- (c) Toll presubscription;
- (d) Telecommunications relay service.

(2) The rates, terms, and conditions for both of the following provided in this state by a telephone company or an incumbent local exchange carrier shall be approved and tariffed in the manner prescribed by rule adopted by the public utilities commission and shall be subject to the applicable laws, including rules or regulations adopted and orders issued by the commission or the federal communications commission:

- (a) Carrier access;
- (b) Pole attachments and conduit occupancy under section 4905.71 of the Revised Code.

(B) The public utilities commission may order changes in a telephone company's rates for carrier access in this state subject to this division. In the event that the public utilities commission reduces a telephone company's rates for carrier access that are in effect on September 13, 2010, that reduction shall be on a revenue-neutral basis under terms and conditions established by the public utilities commission, and any resulting rate changes necessary to comply with division (B) or (C) of this section shall be in addition to any upward rate alteration made under section 4927.12 of the Revised Code.

(C) The public utilities commission has authority to address carrier access policy and to create and administer mechanisms for carrier access reform, including, but not limited to, high cost support.

**Sec. 4928.54.** The director of development services shall aggregate percentage of income payment plan program customers for the purpose of establishing a competitive procurement process for the supply of competitive retail electric service for those customers. The process shall be an auction. Only bidders certified under section 4928.08 of the Revised Code may participate in the auction.

**Sec. 4928.541.**

**Sec. 4928.542.**

**Sec. 4928.543.**

**Sec. 4928.544.**

**Sec. 4928.55.** The director of development services shall establish an energy efficiency and weatherization program targeted, to the extent practicable, to high-cost, high-volume use structures occupied by customers eligible for the percentage of income payment plan program, with the goal of reducing the energy bills of the occupants. Acceptance of energy efficiency and weatherization services provided by the program shall be a condition for the eligibility of any such customer to participate in the percentage of income payment plan program.

**Sec. 4928.581.**

**Sec. 4928.582.**

**Sec. 4928.583.**

**Sec. 4929.164.** (A) A natural gas company may file an application with the public utilities commission for approval of an economic development project that has been certified by the director of development services under the SiteOhio certification program, pursuant to section 122.9511 of

the Revised Code. The company shall file the application prior to beginning the project.

(B) The commission may approve a project under this section if both of the following apply:

(1) The infrastructure development costs for the project are projected to generate a return on the company's investment that is less than the most recently authorized rate of return.

(2) The amount of infrastructure development costs to be incurred by the company per calendar year, for the project and all other projects previously approved under this section, is not projected to exceed the product of one dollar multiplied by the aggregate number of the company's customers in this state.

(C) The commission shall adopt rules to provide for an accelerated review of an application filed under division (A) of this section. The rules shall provide for the automatic approval of the application not later than ninety days after the date of the application filing unless the commission suspends the application for good cause shown. If the application is suspended, the commission shall approve, deny, modify, or hold a hearing on the application not later than forty-five days after the date that the suspension begins.

**Sec. 5101.072.**

**Sec. 5101.073.** There is hereby created in the state treasury the ODJFS audit settlements and contingency fund. The fund shall be used to pay for required audits, settlements, contingencies, and other related expenses. As necessary for the purposes of the fund, the director of job and family services may request the director of budget and management to transfer money from any of the funds used by the department of job and family services, except the general revenue fund, to the ODJFS audit settlements and contingency fund. Upon receipt of such a request, the director of budget and management may transfer the money requested. The director of budget and management, in consultation with the director of job and family services, may transfer money from the ODJFS audit settlements and contingency fund to any fund used by the department or to the general revenue fund.

**Sec. 5101.54.** (A) The director of job and family services shall administer the supplemental nutrition assistance program in accordance with the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.). The department may:

(1) Prepare and submit to the secretary of the United States department of agriculture a plan for the administration of the supplemental nutrition assistance program;

(2) Prescribe forms for applications, certificates, reports, records, and accounts of county departments of job and family services, and other matters;

(3) Require such reports and information from each county department of job and family services as may be necessary and advisable;

(4) Administer and expend any sums appropriated by the general assembly for the purposes of the supplemental nutrition assistance program and all sums paid to the state by the United States as authorized by the Food and Nutrition Act of 2008;

(5) Conduct such investigations as are necessary;

(6) Enter into interagency agreements and cooperate with investigations conducted by the department of public safety, including providing information for investigative purposes, exchanging property and records, passing through federal financial participation, modifying any agreements with the United States department of agriculture, providing for the supply, security, and accounting of supplemental nutrition assistance program benefits for investigative purposes, and meeting any other

requirements necessary for the detection and deterrence of illegal activities in the supplemental nutrition assistance program;

(7) Adopt rules in accordance with Chapter 119. of the Revised Code governing employment and training requirements of recipients of supplemental nutrition assistance program benefits, including rules specifying which recipients are subject to the requirements and establishing sanctions for failure to satisfy the requirements. The rules shall be consistent with 7 U.S.C. 2015, including its work and employment and training requirements, and, to the extent practicable, shall provide for the recipients to participate in work activities, developmental activities, and alternative work activities described in sections 5107.40 to 5107.69 of the Revised Code that are comparable to programs authorized by 7 U.S.C. 2015(d)(4). The rules may reference rules adopted under section 5107.05 of the Revised Code governing work activities, developmental activities, and alternative work activities described in sections 5107.40 to 5107.69 of the Revised Code.

(8) Adopt rules in accordance with section 111.15 of the Revised Code that are consistent with the Food and Nutrition Act of 2008, as amended, and regulations adopted thereunder governing the following:

(a) Eligibility requirements for the supplemental nutrition assistance program;

(b) Sanctions for failure to comply with eligibility requirements;

(c) Allotment of supplemental nutrition assistance program benefits;

(d) To the extent permitted under federal statutes and regulations, a system under which some or all recipients of supplemental nutrition assistance program benefits subject to employment and training requirements established by rules adopted under division (A)(7) of this section receive the benefits after satisfying the requirements;

(e) Administration of the program by county departments of job and family services;

(f) Other requirements necessary for the efficient administration of the program.

(9) Submit a plan to the United States secretary of agriculture for the department of job and family services to operate a simplified supplemental nutrition assistance program pursuant to 7 U.S.C. 2035 under which requirements governing the Ohio works first program established under Chapter 5107. of the Revised Code also govern the supplemental nutrition assistance program in the case of households receiving supplemental nutrition assistance program benefits and participating in Ohio works first.

(B) A household that is entitled to receive supplemental nutrition assistance program benefits and that is determined to be in immediate need of nutrition assistance, shall receive certification of eligibility for program benefits, pending verification, within twenty-four hours, or, if mitigating circumstances occur, within seventy-two hours, after application, if:

(1) The results of the application interview indicate that the household will be eligible upon full verification;

(2) Information sufficient to confirm the statements in the application has been obtained from at least one additional source, not a member of the applicant's household. Such information shall be recorded in the case file, and shall include:

(a) The name of the person who provided the name of the information source;

(b) The name and address of the information source;

(c) A summary of the information obtained.

The period of temporary eligibility shall not exceed one month from the date of certification of temporary eligibility. If eligibility is established by full verification, benefits shall continue without interruption as long as eligibility continues.

At the time of application, the county department of job and family services shall provide to a household described in this division a list of community assistance programs that provide emergency food.

(C) All applications shall be approved or denied through full verification within thirty days from receipt of the application by the county department of job and family services.

(D) Nothing in this section shall be construed to prohibit the certification of households that qualify under federal regulations to receive supplemental nutrition assistance program benefits without charge under the Food and Nutrition Act of 2008.

(E) Any person who applies for the supplemental nutrition assistance program shall receive a voter registration application under section 3503.10 of the Revised Code.

**Sec. 5101.60.** As used in sections 5101.60 to 5101.73 of the Revised Code:

(A) "Abandonment" means desertion of an adult by a caretaker without having made provision for transfer of the adult's care.

(B) "Abuse" means the infliction upon an adult by self or others of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish.

(C) "Adult" means any person sixty years of age or older within this state who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevents the person from providing for the person's own care or protection, and who resides in an independent living arrangement.

(D) "Area agency on aging" means a public or private nonprofit entity designated under section 173.011 of the Revised Code to administer programs on behalf of the department of aging.

(E) "Caretaker" means the person assuming the primary responsibility for the care of an adult by any of the following means:

- (1) On a voluntary basis;
- (2) By contract;
- (3) Through receipt of payment for care;
- (4) As a result of a family relationship;
- (5) By order of a court of competent jurisdiction.

(F) "Community mental health agency" means any agency, program, or facility with which a board of alcohol, drug addiction, and mental health services contracts to provide the mental health services listed in section 340.99 of the Revised Code.

(G) "Court" means the probate court in the county where an adult resides.

(H) "Emergency" means that the adult is living in conditions which present a substantial risk of immediate and irreparable physical harm or death to self or any other person.

(I) "Emergency services" means protective services furnished to an adult in an emergency.

(J) "Exploitation" means the unlawful or improper act of a person using, in one or more transactions, an adult or an adult's resources for monetary or personal benefit, profit, or gain when the person obtained or exerted control over the adult or the adult's resources in any of the following ways:

(1) Without the adult's consent or the consent of the person authorized to give consent on the adult's behalf;

(2) Beyond the scope of the express or implied consent of the adult or the person authorized to give consent on the adult's behalf;

(3) By deception;

(4) By threat;

(5) By intimidation.

(K) "In need of protective services" means an adult known or suspected to be suffering from abuse, neglect, or exploitation to an extent that either life is endangered or physical harm, mental anguish, or mental illness results or is likely to result.

(L) "Incapacitated person" means a person who is impaired for any reason to the extent that the person lacks sufficient understanding or capacity to make and carry out reasonable decisions concerning the person's self or resources, with or without the assistance of a caretaker. Refusal to consent to the provision of services shall not be the sole determinative that the person is incapacitated.

(M) "Independent living arrangement" means a domicile of a person's own choosing, including, but not limited to, a private home, apartment, trailer, or rooming house. "Independent living arrangement" includes a residential facility licensed under section 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults, but does not include any other institution or facility licensed by the state or a facility in which a person resides as a result of voluntary, civil, or criminal commitment.

(N) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

(O) "Neglect" means any of the following:

(1) Failure of an adult to provide for self the goods or services necessary to avoid physical harm, mental anguish, or mental illness;

(2) Failure of a caretaker to provide such goods or services;

(3) Abandonment.

(P) "Outpatient health facility" means a facility where medical care and preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services are provided to outpatients by or under the direction of a physician or dentist.

(Q) "Peace officer" means a peace officer as defined in section 2935.01 of the Revised Code.

(R) "Physical harm" means bodily pain, injury, impairment, or disease suffered by an adult.

(S) "Protective services" means services provided by the county department of job and family services or its designated agency to an adult who has been determined by evaluation to require such services for the prevention, correction, or discontinuance of an act of as well as conditions resulting from abuse, neglect, or exploitation. Protective services may include, but are not limited to, case work services, medical care, mental health services, legal services, fiscal management, home health care, homemaker services, housing-related services, guardianship services, and placement services as well as the provision of such commodities as food, clothing, and shelter.

(T) "Reasonable decisions" means decisions made in daily living that facilitate the provision



of food, shelter, clothing, and health care necessary for life support.

(U) "Senior service provider" means a person who provides care or specialized services to an adult, ~~except that it does not include the state long-term care ombudsman or a regional long-term care ombudsman.~~

(V) "Working day" means Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a holiday as defined in section 1.14 of the Revised Code.

**Sec. 5101.61.** (A) The county departments of job and family services shall implement sections 5101.60 to 5101.71 of the Revised Code.

(B) The director of job and family services may adopt rules in accordance with section 111.15 of the Revised Code to carry out the purposes of sections 5101.60 to 5101.71 of the Revised Code. The rules adopted pursuant to this division may include a requirement that the county departments provide on forms prescribed by the rules a plan of proposed expenditures, and a report of actual expenditures, of funds necessary to implement sections 5101.60 to 5101.71 of the Revised Code and other requirements for intake procedures, investigations, case management, and the provision of protective services.

**Sec. 5101.611.** The department of job and family services may reimburse county departments of job and family services for all or part of the costs they incur in implementing sections 5101.60 to 5101.73 of the Revised Code. The director of job and family services shall adopt internal management rules in accordance with section 111.15 of the Revised Code that provide for reimbursement of county departments of job and family services under this section.

The director shall adopt internal management rules in accordance with section 111.15 of the Revised Code that do both of the following:

(A) Implement sections 5101.60 to 5101.71 of the Revised Code;

(B) Require the county departments to collect and submit to the department, or ensure that a designated agency collects and submits to the department, data concerning the implementation of sections 5101.60 to 5101.73 of the Revised Code.

**Sec. 5101.612.**

**Sec. 5101.62.** The department of job and family services shall do all of the following:

(A) Provide a program of ongoing, comprehensive, formal training on the implementation of sections 5101.60 to 5101.73 of the Revised Code and require all protective services caseworkers and their supervisors to undergo the training;

(B) Develop and make available educational materials for individuals who are required under section 5101.63 of the Revised Code to make reports of abuse, neglect, and exploitation;

(C) Facilitate ongoing cooperation among state agencies on issues pertaining to the abuse, neglect, or exploitation of adults.

**Sec. 5101.621.**

**Sec. 5101.622.**

**Sec. 5101.69.** (A) If an adult has consented to the provision of protective services but any other person refuses to allow such provision, the county department of job and family services or the county prosecutor may petition the court for a temporary restraining order to restrain the person from interfering with the provision of protective services for the adult.

(B) The petition shall state specific facts sufficient to demonstrate the need for protective

services, the consent of the adult, and the refusal of some other person to allow the provision of these services.

(C) Notice of the petition shall be given in language reasonably understandable to the person alleged to be interfering with the provision of services;

(D) The court shall hold a hearing on the petition within fourteen days after its filing. If the court finds that the protective services are necessary, that the adult has consented to the provision of such services, and that the person who is the subject of the petition has prevented such provision, the court shall issue a temporary restraining order to restrain the person from interfering with the provision of protective services to the adult.

**Sec. 5101.691.**

**Sec. 5101.692.**

**Sec. 5101.71.** (A) If it appears that an adult in need of protective services has the financial means sufficient to pay for such services, the county department of job and family services shall make an evaluation regarding such means. If the evaluation establishes that the adult has such financial means, the department shall initiate procedures for reimbursement pursuant to rules adopted under section 5101.61 of the Revised Code. If the evaluation establishes that the adult does not have such financial means, the services shall be provided in accordance with the policies and procedures established by the department of job and family services for the provision of welfare assistance. An adult shall not be required to pay for court-ordered protective services unless the court determines that the adult is financially able to pay and the court orders the adult to pay.

(B) Whenever the county department of job and family services or the county prosecutor has petitioned the court to authorize the provision of protective services and the adult who is the subject of the petition is indigent, the court shall appoint legal counsel.

**Sec. 5101.72.** The department of job and family services, to the extent of available funds, may reimburse county departments of job and family services for all or part of the costs they incur in implementing sections 5101.60 to 5101.71 of the Revised Code. The director of job and family services shall adopt internal management rules in accordance with section 111.15 of the Revised Code that provide for reimbursement of county departments of job and family services under this section.

The director shall adopt internal management rules in accordance with section 111.15 of the Revised Code that do both of the following:

(A) Implement sections 5101.60 to 5101.71 of the Revised Code;

(B) Require the county departments to collect and submit to the department, or ensure that a designated agency collects and submits to the department, data concerning the implementation of sections 5101.60 to 5101.71 of the Revised Code.

**Sec. 5101.91.** (A) As used in sections 5101.91 and 5101.92 of the Revised Code:

(1) "Political subdivision" has the same meaning as in section 2744.01 of the Revised Code.

(2) "Publicly funded assistance program" means any physical health, behavioral health, social, employment, education, housing, or similar program funded or provided by the state or a political subdivision of the state.

(B) There is hereby created the Ohio healthier buckeye advisory council in the department of job and family services. The council shall meet at the discretion of the director of job and family

services and shall consist of the following members:

(1) Five members representing affected local private employers or local faith-based, charitable, nonprofit, or public entities or individuals participating in the healthier buckeye grant program, appointed by the governor;

(2) Two members of the senate, one from the majority party and one from the minority party, appointed by the president of the senate;

(3) Two members of the house of representatives, one from the majority party and one from the minority party, appointed by the speaker of the house of representatives;

(4) One member representing the judicial branch of government, appointed by the chief justice of the supreme court;

(5) Additional members representing any other entities or organizations the director of job and family services determines are necessary, appointed by the governor.

(C) Initial appointments to the council shall be made not later than thirty days after September 15, 2014.

A member shall serve at the pleasure of the member's appointing authority. Members may be reappointed to the council. Vacancies on the council shall be filled in the same manner as the original appointments.

(D) The director of job and family services shall serve as chairperson of the council.

(E) The department of job and family services shall provide administrative assistance to the council.

(F) Members shall serve without compensation, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.

(G) Annually, the Ohio healthier buckeye advisory council shall submit a report to the governor and, in accordance with section 101.68 of the Revised Code, to the general assembly. Each report shall contain a description of the council's activities for the preceding year and any other information the council considers appropriate to include in the report.

**Sec. 5101.92.** The Ohio healthier buckeye advisory council shall do all of the following:

(A) Develop the means by which local healthier buckeye councils established under section 355.02 of the Revised Code may reduce the reliance of individuals on publicly funded assistance programs as provided in section 355.03 of the Revised Code;

(B) Provide assistance in the establishment of local healthier buckeye councils under Chapter 355. of the Revised Code;

(C) Identify barriers and gaps to achieving greater financial independence for individuals and families, and provide advice to remove those barriers and gaps;

(D) Collect, analyze, and report performance measure information.

**Sec. 5101.98.** (A) There is hereby created in the state treasury the military injury relief fund, which shall consist of money contributed to it under sections 4503.535 and 5747.113 of the Revised Code, of incentive grants authorized by the "Jobs for Veterans Act," 116 Stat. 2033 (2002), and of contributions made directly to it. Any person or entity may contribute directly to the fund in addition to or independently of the income tax refund contribution system established in section 5747.113 of the Revised Code.

(B) Upon application, the director of job and family services shall grant money in the fund to

individuals injured while in active service as a member of the armed forces of the United States while serving under operation Iraqi freedom, operation new dawn, or operation enduring freedom and to individuals diagnosed with post-traumatic stress disorder while serving, or after having served, in operation Iraqi freedom, operation new dawn, or operation enduring freedom.

(C) An individual who receives a grant under this section is precluded from receiving additional grants under this section during the same state fiscal year but is not precluded from being considered for or receiving other assistance offered by the department of job and family services.

(D) The director shall adopt rules under Chapter 119. of the Revised Code establishing:

- (1) Forms and procedures by which individuals may apply for a grant under this section;
- (2) Criteria for reviewing, evaluating, and approving or denying grant applications;
- (3) Criteria for determining the amount of grants awarded under this section;
- (4) Definitions and standards applicable to determining whether an individual meets the requirements established in division (B) of this section;
- (5) The process for appealing eligibility determinations; and
- (6) Any other rules necessary to administer the grant program established in this section.

(E) An eligibility determination, a grant approval, or a grant denial made under this section may not be appealed under Chapter 119., section 5101.35, or any other provision of the Revised Code.

**Sec. 5101.99.** (A) Whoever violates division (A) of section 5101.63 of the Revised Code shall be fined not more than five hundred dollars.

(B) Whoever violates division (A) of section 5101.27 of the Revised Code is guilty of a misdemeanor of the first degree.

(C) Whoever violates section 5101.133 or division (C)(2) of section 5101.631 of the Revised Code is guilty of a misdemeanor of the fourth degree.

**Sec. 5103.02.** As used in sections 5103.03 to 5103.17 of the Revised Code:

(A)(1) "Association" or "institution" includes all of the following:

(a) Any incorporated or unincorporated organization, society, association, or agency, public or private, that receives or cares for children for two or more consecutive weeks;

(b) Any individual, including the operator of a foster home, who, for hire, gain, or reward, receives or cares for children for two or more consecutive weeks, unless the individual is related to them by blood or marriage;

(c) Any individual not in the regular employ of a court, or of an institution or association certified in accordance with section 5103.03 of the Revised Code, who in any manner becomes a party to the placing of children in foster homes, unless the individual is related to such children by blood or marriage or is the appointed guardian of such children.

(2) "Association" or "institution" does not include any of the following:

(a) Any organization, society, association, school, agency, child guidance center, detention or rehabilitation facility, or children's clinic licensed, regulated, approved, operated under the direction of, or otherwise certified by the department of education, a local board of education, the department of youth services, the department of mental health and addiction services, or the department of developmental disabilities;

(b) Any individual who provides care for only a single-family group, placed there by their

parents or other relative having custody;

(c) A private, nonprofit therapeutic wilderness camp.

(B) "Family foster home" means a foster home that is not a specialized foster home.

(C) "Foster caregiver" means a person holding a valid foster home certificate issued under section 5103.03 of the Revised Code.

(D) "Foster home" means a private residence in which children are received apart from their parents, guardian, or legal custodian, by an individual reimbursed for providing the children nonsecure care, supervision, or training twenty-four hours a day. "Foster home" does not include care provided for a child in the home of a person other than the child's parent, guardian, or legal custodian while the parent, guardian, or legal custodian is temporarily away. Family foster homes and specialized foster homes are types of foster homes.

(E) "Medically fragile foster home" means a foster home that provides specialized medical services designed to meet the needs of children with intensive health care needs who meet all of the following criteria:

(1) Under rules adopted by the medicaid director governing medicaid payments for long-term care services, the children require a skilled level of care.

(2) The children require the services of a doctor of medicine or osteopathic medicine at least once a week due to the instability of their medical conditions.

(3) The children require the services of a registered nurse on a daily basis.

(4) The children are at risk of institutionalization in a hospital, skilled nursing facility, or intermediate care facility for individuals with intellectual disabilities.

(F) "Private, nonprofit therapeutic wilderness camp" means a structured, alternative residential setting for children who are experiencing emotional, behavioral, moral, social, or learning difficulties at home or school in which all of the following are the case:

(1) The children spend the majority of their time, including overnight, either outdoors or in a primitive structure.

(2) The children have been placed there by their parents or another relative having custody.

(3) The camp accepts no public funds for use in its operations.

(G) "Recommending agency" means a public children services agency, private child placing agency, or private noncustodial agency that recommends that the department of job and family services take any of the following actions under section 5103.03 of the Revised Code regarding a foster home:

(1) Issue a certificate;

(2) Deny a certificate;

(3) Renew a certificate;

(4) Deny renewal of a certificate;

(5) Revoke a certificate.

(H) "Specialized foster home" means a medically fragile foster home or a treatment foster home.

(I) "Treatment foster home" means a foster home that incorporates special rehabilitative services designed to treat the specific needs of the children received in the foster home and that receives and cares for children who are emotionally or behaviorally disturbed, who are chemically

dependent, who have developmental disabilities, or who otherwise have exceptional needs.

**Sec. 5103.50.**

**Sec. 5103.51.**

**Sec. 5103.52.**

**Sec. 5103.53.**

**Sec. 5103.54.**

**Sec. 5103.55.**

**Sec. 5104.01.** As used in this chapter:

(A) "Administrator" means the person responsible for the daily operation of a center, type A home, or type B home. The administrator and the owner may be the same person.

(B) "Approved child day camp" means a child day camp approved pursuant to section 5104.22 of the Revised Code.

(C) "Border state child care provider" means a child care provider that is located in a state bordering Ohio and that is licensed, certified, or otherwise approved by that state to provide child care.

(D) "Career pathways model" means an alternative pathway to meeting the requirements to be a child-care staff member or administrator that does both of the following:

(1) Uses a framework approved by the director of job and family services to document formal education, training, experience, and specialized credentials and certifications;

(2) Allows the child-care staff member or administrator to achieve a designation as an early childhood professional level one, two, three, four, five, or six.

(E) "Caretaker parent" means the father or mother of a child whose presence in the home is needed as the caretaker of the child, a person who has legal custody of a child and whose presence in the home is needed as the caretaker of the child, a guardian of a child whose presence in the home is needed as the caretaker of the child, and any other person who stands in loco parentis with respect to the child and whose presence in the home is needed as the caretaker of the child.

(F) "Chartered nonpublic school" means a school that meets standards for nonpublic schools prescribed by the state board of education for nonpublic schools pursuant to section 3301.07 of the Revised Code.

(G) "Child" includes an infant, toddler, preschool-age child, or school-age child.

(H) "Child care block grant act" means the "Child Care and Development Block Grant Act of 1990," established in section 5082 of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 1388-236 (1990), 42 U.S.C. 9858, as amended.

(I) "Child day camp" means a program in which only school-age children attend or participate, that operates for no more than seven hours per day, that operates only during one or more public school district's regular vacation periods or for no more than fifteen weeks during the summer, and that operates outdoor activities for each child who attends or participates in the program for a minimum of fifty per cent of each day that children attend or participate in the program, except for any day when hazardous weather conditions prevent the program from operating outdoor activities for a minimum of fifty per cent of that day. For purposes of this division, the maximum seven hours of operation time does not include transportation time from a child's home to a child day camp and from a child day camp to a child's home.

(J) "Child care" means all of the following:

- (1) Administering to the needs of infants, toddlers, preschool-age children, and school-age children outside of school hours;
- (2) By persons other than their parents, guardians, or custodians;
- (3) For any part of the twenty-four-hour day;
- (4) In a place other than a child's own home, except that an in-home aide provides child care in the child's own home.

(K) "Child day-care center" and "center" mean any place in which child care or publicly funded child care is provided for thirteen or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child care or publicly funded child care is provided for seven to twelve children at one time. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the center shall be counted. "Child day-care center" and "center" do not include any of the following:

(1) A place located in and operated by a hospital, as defined in section 3727.01 of the Revised Code, in which the needs of children are administered to, if all the children whose needs are being administered to are monitored under the on-site supervision of a physician licensed under Chapter 4731. of the Revised Code or a registered nurse licensed under Chapter 4723. of the Revised Code, and the services are provided only for children who, in the opinion of the child's parent, guardian, or custodian, are exhibiting symptoms of a communicable disease or other illness or are injured;

(2) A child day camp;

(3) A place that provides child care, but not publicly funded child care, if all of the following apply:

(a) An organized religious body provides the child care;

(b) A parent, custodian, or guardian of at least one child receiving child care is on the premises and readily accessible at all times;

(c) The child care is not provided for more than thirty days a year;

(d) The child care is provided only for preschool-age and school-age children.

(L) "Child care resource and referral service organization" means a community-based nonprofit organization that provides child care resource and referral services but not child care.

(M) "Child care resource and referral services" means all of the following services:

(1) Maintenance of a uniform data base of all child care providers in the community that are in compliance with this chapter, including current occupancy and vacancy data;

(2) Provision of individualized consumer education to families seeking child care;

(3) Provision of timely referrals of available child care providers to families seeking child care;

(4) Recruitment of child care providers;

(5) Assistance in the development, conduct, and dissemination of training for child care providers and provision of technical assistance to current and potential child care providers, employers, and the community;

(6) Collection and analysis of data on the supply of and demand for child care in the community;

(7) Technical assistance concerning locally, state, and federally funded child care and early childhood education programs;

(8) Stimulation of employer involvement in making child care more affordable, more available, safer, and of higher quality for their employees and for the community;

(9) Provision of written educational materials to caretaker parents and informational resources to child care providers;

(10) Coordination of services among child care resource and referral service organizations to assist in developing and maintaining a statewide system of child care resource and referral services if required by the department of job and family services;

(11) Cooperation with the county department of job and family services in encouraging the establishment of parent cooperative child care centers and parent cooperative type A family day-care homes.

(N) "Child-care staff member" means an employee of a child day-care center or type A family day-care home who is primarily responsible for the care and supervision of children. The administrator may be a part-time child-care staff member when not involved in other duties.

(O) "Drop-in child day-care center," "drop-in center," "drop-in type A family day-care home," and "drop-in type A home" mean a center or type A home that provides child care or publicly funded child care for children on a temporary, irregular basis.

(P) "Employee" means a person who either:

(1) Receives compensation for duties performed in a child day-care center or type A family day-care home;

(2) Is assigned specific working hours or duties in a child day-care center or type A family day-care home.

(Q) "Employer" means a person, firm, institution, organization, or agency that operates a child day-care center or type A family day-care home subject to licensure under this chapter.

(R) "Federal poverty line" means the official poverty guideline as revised annually in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(S) "Head start program" means a comprehensive child development program serving birth to three years old and preschool-age children that receives funds distributed under the "Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as amended, and is licensed as a child day-care center.

(T) "Income" means gross income, as defined in section 5107.10 of the Revised Code, less any amounts required by federal statutes or regulations to be disregarded.

(U) "Indicator checklist" means an inspection tool, used in conjunction with an instrument-based program monitoring information system, that contains selected licensing requirements that are statistically reliable indicators or predictors of a child day-care center's type A family day-care home's, or licensed type B family day-care home's compliance with licensing requirements.

(V) "Infant" means a child who is less than eighteen months of age.

(W) "In-home aide" means a person who does not reside with the child but provides care in the child's home and is certified by a county director of job and family services pursuant to section 5104.12 of the Revised Code to provide publicly funded child care to a child in a child's own home



pursuant to this chapter and any rules adopted under it.

(X) "Instrument-based program monitoring information system" means a method to assess compliance with licensing requirements for child day-care centers, type A family day-care homes, and licensed type B family day-care homes in which each licensing requirement is assigned a weight indicative of the relative importance of the requirement to the health, growth, and safety of the children that is used to develop an indicator checklist.

(Y) "License capacity" means the maximum number in each age category of children who may be cared for in a child day-care center or type A family day-care home at one time as determined by the director of job and family services considering building occupancy limits established by the department of commerce, amount of available indoor floor space and outdoor play space, and amount of available play equipment, materials, and supplies. For the purposes of a provisional license issued under this chapter, the director shall also consider the number of available child-care staff members when determining "license capacity" for the provisional license.

(Z) "Licensed child care program" means any of the following:

(1) A child day-care center licensed by the department of job and family services pursuant to this chapter;

(2) A type A family day-care home or type B family day-care home licensed by the department of job and family services pursuant to this chapter;

(3) A licensed preschool program or licensed school child program.

(AA) "Licensed preschool program" or "licensed school child program" means a preschool program or school child program, as defined in section 3301.52 of the Revised Code, that is licensed by the department of education pursuant to sections 3301.52 to 3301.59 of the Revised Code.

(BB) "Licensed type B family day-care home" and "licensed type B home" mean a type B family day-care home for which there is a valid license issued by the director of job and family services pursuant to section 5104.03 of the Revised Code.

(CC) "Licensee" means the owner of a child day-care center, type A family day-care home, or type B family day-care home that is licensed pursuant to this chapter and who is responsible for ensuring its compliance with this chapter and rules adopted pursuant to this chapter.

(DD) "Operate a child day camp" means to operate, establish, manage, conduct, or maintain a child day camp.

(EE) "Owner" includes a person, as defined in section 1.59 of the Revised Code, or government entity.

(FF) "Parent cooperative child day-care center," "parent cooperative center," "parent cooperative type A family day-care home," and "parent cooperative type A home" mean a corporation or association organized for providing educational services to the children of members of the corporation or association, without gain to the corporation or association as an entity, in which the services of the corporation or association are provided only to children of the members of the corporation or association, ownership and control of the corporation or association rests solely with the members of the corporation or association, and at least one parent-member of the corporation or association is on the premises of the center or type A home during its hours of operation.

(GG) "Part-time child day-care center," "part-time center," "part-time type A family day-care home," and "part-time type A home" mean a center or type A home that provides child care or

publicly funded child care for not more than four hours a day for any child or not more than fifteen consecutive weeks per year, regardless of the number of hours per day.

(HH) "Place of worship" means a building where activities of an organized religious group are conducted and includes the grounds and any other buildings on the grounds used for such activities.

(II) "Preschool-age child" means a child who is three years old or older but is not a school-age child.

(JJ) "Protective child care" means publicly funded child care for the direct care and protection of a child to whom either of the following applies:

(1) A case plan prepared and maintained for the child pursuant to section 2151.412 of the Revised Code indicates a need for protective care and the child resides with a parent, stepparent, guardian, or another person who stands in loco parentis as defined in rules adopted under section 5104.38 of the Revised Code;

(2) The child and the child's caretaker either temporarily reside in a facility providing emergency shelter for homeless families or are determined by the county department of job and family services to be homeless, and are otherwise ineligible for publicly funded child care.

(KK) "Publicly funded child care" means administering to the needs of infants, toddlers, preschool-age children, and school-age children under age thirteen during any part of the twenty-four-hour day by persons other than their caretaker parents for remuneration wholly or in part with federal or state funds, including funds available under the child care block grant act, Title IV-A, and Title XX, distributed by the department of job and family services.

(LL) "Religious activities" means any of the following: worship or other religious services; religious instruction; Sunday school classes or other religious classes conducted during or prior to worship or other religious services; youth or adult fellowship activities; choir or other musical group practices or programs; meals; festivals; or meetings conducted by an organized religious group.

(MM) "School-age child" means a child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above but is less than fifteen years old.

(NN) "School-age child care center" and "school-age child type A home" mean a center or type A home that provides child care for school-age children only and that does either or both of the following:

(1) Operates only during that part of the day that immediately precedes or follows the public school day of the school district in which the center or type A home is located;

(2) Operates only when the public schools in the school district in which the center or type A home is located are not open for instruction with pupils in attendance.

(OO) "Serious risk noncompliance" means a licensure or certification rule violation that leads to a great risk of harm to, or death of, a child, and is observable, not inferable.

(PP) "State median income" means the state median income calculated by the department of development pursuant to division (A)(1)(g) of section 5709.61 of the Revised Code.

(QQ) "Title IV-A" means Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended.

(RR) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended.

(SS) "Toddler" means a child who is at least eighteen months of age but less than three years of age.

(TT) "Type A family day-care home" and "type A home" mean a permanent residence of the administrator in which child care or publicly funded child care is provided for seven to twelve children at one time or a permanent residence of the administrator in which child care is provided for four to twelve children at one time if four or more children at one time are under two years of age. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the type A home shall be counted. "Type A family day-care home" and "type A home" do not include any child day camp.

(UU) "Type B family day-care home" and "type B home" mean a permanent residence of the provider in which child care is provided for one to six children at one time and in which no more than three children are under two years of age at one time. In counting children for the purposes of this division, any children under six years of age who are related to the provider and who are on the premises of the type B home shall be counted. "Type B family day-care home" and "type B home" do not include any child day camp.

**Sec. 5104.013.** (A)(1) At the times specified in division (A)(3) of this section, the director of job and family services, as part of the process of licensure of child day-care centers, type A family day-care homes, and type B family day-care homes shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to the following persons:

- (a) Any owner, licensee, or administrator of a center;
- (b) Any owner, licensee, or administrator of a type A home or type B home and any person eighteen years of age or older who resides in a type A home or type B home.

(2) At the time specified in division (A)(3) of this section, the director of a county department of job and family services, as part of the process of certification of in-home aides, shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any in-home aide.

(3) The director of job and family services shall request a criminal records check pursuant to division (A)(1) of this section at the time of the initial application for licensure and every five years thereafter. The director of a county department of job and family services shall request a criminal records check pursuant to division (A)(2) of this section at the time of the initial application for certification and every five years thereafter. When the director of job and family services or the director of a county department of job and family services requests pursuant to division (A)(1) or (2) of this section a criminal records check for a person at the time of the person's initial application for licensure or certification, the director shall request that the superintendent of the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as a part of the criminal records check for the person, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 for the person subject to the criminal records check. In all other cases in which the director of job and family services or the director of a county department of job and family services requests a criminal records check for an applicant pursuant to division (A)(1) or (2) of this section, the director may request that the superintendent include

information from the federal bureau of investigation in the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671.

(4) The director of job and family services shall review the results of a criminal records check subsequent to a request made pursuant to divisions (A)(1) and (3) of this section prior to approval of a license. The director of a county department of job and family services shall review the results of a criminal records check subsequent to a request made pursuant to divisions (A)(2) and (3) of this section prior to approval of certification.

(B) The director of job and family services or the director of a county department of job and family services shall provide to each person for whom a criminal records check is required under this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of that section, obtain the completed form and impression sheet from that person, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(C) A person who receives pursuant to division (B) of this section a copy of the form and standard impression sheet described in that division and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the person's fingerprints. If the person, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the person's fingerprints, the director may consider the failure as a reason to deny licensure or certification.

(D) Except as provided in rules adopted under division (N) of this section:

(1) The director of job and family services shall not grant a license to a center, type A home, or type B home and a county director of job and family services shall not certify an in-home aide if a person for whom a criminal records check was required in connection with the center or home previously has been convicted of or pleaded guilty to any of the violations described in division (A)(5) of section 109.572 of the Revised Code.

(2) The director of job and family services shall not grant a license to a type A home or type B home if a resident of the type A home or type B home is under eighteen years of age and has been adjudicated a delinquent child for committing a violation of any section listed in division (A)(5) of section 109.572 of the Revised Code.

(E) Each center, type A home, and type B home shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon a request made pursuant to division (A) of this section.

(F)(1) At the times specified in division (F)(2) of this section, the administrator of a center, type A home or licensed type B home shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any applicant who has applied to the center, type A home, or licensed type B home for employment.

(2) The administrator shall request a criminal records check pursuant to division (F)(1) of this section at the time of the applicant's initial application for employment and every five years thereafter. When the administrator requests pursuant to division (F)(1) of this section a criminal

records check for an applicant at the time of the applicant's initial application for employment, the administrator shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check for the applicant, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671, for the person subject to the criminal records check. In all other cases in which the administrator requests a criminal records check for an applicant pursuant to division (F)(1) of this section, the administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671.

(G) Any person required by division (F) of this section to request a criminal records check shall inform each person, at the time of the person's initial application for employment, that the person is required to provide a set of impressions of the person's fingerprints and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for that position.

(H) A person required by division (F) of this section to request a criminal records check shall provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code, provide to each applicant a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation at the time the person requests a criminal records check pursuant to division (F) of this section.

(I) An applicant who receives pursuant to division (H) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, the center or type A home shall not employ that applicant for any position for which a criminal records check is required by division (F) of this section.

(J)(1) Except as provided in rules adopted under division (N) of this section, no center, type A home, or licensed type B home shall employ or contract with another entity for the services of a person if the person previously has been convicted of or pleaded guilty to any of the violations described in division (A)(5) of section 109.572 of the Revised Code.

(2) A center, type A home, or licensed type B home may employ an applicant conditionally until the criminal records check required by this section is completed and the center or home receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (J)(1) of this section, the applicant does not qualify for employment, the center, type A home, or licensed type B home shall release the applicant from employment.

(3) The administrator of a center, type A home, or licensed type B home shall review the

results of the criminal records check before an applicant has sole responsibility for the care, custody, or control of any child.

(K)(1) Each center, type A home, and licensed type B home shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request pursuant to division (F) of this section of the administrator of the center, type A home, or licensed type B home.

(2) A center, type A home, or licensed type B home may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section. A fee charged under this division shall not exceed the amount of fees the center, type A home, or licensed type B home pays under division (K)(1) of this section. If a fee is charged under this division, the center, type A home, or licensed type B home shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the center, type A home, or licensed type B home will not consider the applicant for employment.

(L) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (A) or (F) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the person who is the subject of the criminal records check or the person's representative, the director of job and family services, the director of a county department of job and family services, the center, type A home, or type B home involved, and any court, hearing officer, or other necessary individual involved in a case dealing with a denial of licensure or certification related to the criminal records check.

(M)(1) Each of the following persons shall sign a statement on forms prescribed by the director of job and family services attesting to the fact that the person has not been convicted of or pleaded guilty to any offense set forth in division (A)(5) of section 109.572 of the Revised Code and that no child has been removed from the person's home pursuant to section 2151.353 of the Revised Code:

- (a) An employee of a center, type A home, or licensed type B home;
- (b) A person eighteen years of age or older who resides in a type A home or licensed type B home;
- (c) An in-home aide;
- (d) An owner, licensee, or administrator of a center, type A home, or licensed type B home.

(2) Each licensee of a type A home or type B home shall sign a statement on a form prescribed by the director of job and family services attesting to the fact that no person who resides at the type A home or licensed type B home and is under eighteen years of age has been adjudicated a delinquent child for committing a violation of any section listed in division (A)(5) of section 109.572 of the Revised Code.

(3) The statements required under divisions (M)(1) and (2) of this section shall be kept on file as follows:

- (a) With respect to an owner, licensee, administrator, or employee of a center, type A home, or licensed type B home, or a person eighteen years of age or older residing in a type A home or

licensed type B home, at the center, type A home, or licensed type B home;

(b) With respect to in-home aides, at the county department of job and family services.

(4) No owner, administrator, licensee, or employee of a center, type A home, or licensed type B home, and no person eighteen years of age or older residing in a type A home or licensed type B home, shall withhold information from, or falsify information on, any statement required pursuant to division (M)(1) or (2) of this section.

(N) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section, including rules specifying exceptions to the prohibitions in divisions (D) and (J) of this section for persons who have been convicted of an offense listed in division (A)(5) of section 109.572 of the Revised Code but who meet standards in regard to rehabilitation set by the director.

(O) As used in this section:

(1) "Applicant" means a person who is under final consideration for appointment to or employment in a position with a center, a type A home, or licensed type B home or any person who would serve in any position with a center, type A home, or licensed type B home pursuant to a contract with another entity.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

**Sec. 5104.015.** The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code governing the operation of child day-care centers, including parent cooperative centers, part-time centers, drop-in centers, and school-age child care centers. The rules shall reflect the various forms of child care and the needs of children receiving child care or publicly funded child care and shall include specific rules for school-age child care centers that are developed in consultation with the department of education. The rules shall not require an existing school facility that is in compliance with applicable building codes to undergo an additional building code inspection or to have structural modifications. The rules shall include the following:

(A) Submission of a site plan and descriptive plan of operation to demonstrate how the center proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;

(B) Standards for ensuring that the physical surroundings of the center are safe and sanitary including the physical environment, the physical plant, and the equipment of the center;

(C) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the center;

(D) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible. As used in this division, "program" does not include instruction in religious or moral doctrines, beliefs, or values that is conducted at child day-care centers owned and operated by churches and does include methods of disciplining children at child day-care centers.

(E) Admissions policies and procedures;

(F) Health care policies and procedures, including procedures for the isolation of children

with communicable diseases;

(G) First aid and emergency procedures;

(H) Procedures for discipline and supervision of children;

(I) Standards for the provision of nutritious meals and snacks;

(J) Procedures for screening children that may include any necessary physical examinations and shall include immunizations in accordance with section 5104.014 of the Revised Code;

(K) Procedures for screening employees that may include any necessary physical examinations and immunizations;

(L) Methods for encouraging parental participation in the center and methods for ensuring that the rights of children, parents, and employees are protected and that responsibilities of parents and employees are met;

(M) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the center while under the care of a center employee;

(N) Procedures for record keeping, organization, and administration;

(O) Procedures for issuing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;

(P) Inspection procedures;

(Q) Procedures and standards for setting initial license application fees;

(R) Procedures for receiving, recording, and responding to complaints about centers;

(S) Procedures for enforcing section 5104.04 of the Revised Code;

(T) A standard requiring the inclusion of a current department of job and family services toll-free telephone number on each center provisional license or license which any person may use to report a suspected violation by the center of this chapter or rules adopted pursuant to this chapter;

(U) Requirements for the training of administrators and child-care staff members, including training in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;

(V) Standards providing for the special needs of children who are handicapped or who require treatment for health conditions while the child is receiving child care or publicly funded child care in the center;

(W) A procedure for reporting of injuries of children that occur at the center;

(X) Standards for licensing child day-care centers for children with short-term illnesses and other temporary medical conditions;

(Y) Minimum requirements for instructional time for child day-care centers rated through the step up to quality program established pursuant to section 5104.29 of the Revised Code;

(Z) Any other procedures and standards necessary to carry out the provisions of this chapter regarding child day-care centers.

**Sec. 5104.016.** The director of job and family services, in addition to the rules adopted under section 5104.015 of the Revised Code, shall adopt rules establishing minimum requirements for child day-care centers. The rules shall include the requirements set forth in sections 5104.032 to 5104.036 of the Revised Code. Except as provided in section 5104.07 of the Revised Code, the rules shall not change the square footage requirements of section 5104.032 of the Revised Code; the maximum number of children per child-care staff member and maximum group size requirements of section



5104.033 of the Revised Code; the educational and experience requirements of section 5104.035 of the Revised Code; the age, educational, and experience requirements of section 5104.036 of the Revised Code; however, the rules shall provide procedures for determining compliance with those requirements.

**Sec. 5104.017.** The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the operation of type A family day-care homes, including parent cooperative type A homes, part-time type A homes, drop-in type A homes, and school-age child type A homes. The rules shall reflect the various forms of child care and the needs of children receiving child care. The rules shall include the following:

(A) Submission of a site plan and descriptive plan of operation to demonstrate how the type A home proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;

(B) Standards for ensuring that the physical surroundings of the type A home are safe and sanitary, including the physical environment, the physical plant, and the equipment of the type A home;

(C) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the type A home;

(D) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(E) Admissions policies and procedures;

(F) Health care policies and procedures, including procedures for the isolation of children with communicable diseases;

(G) First aid and emergency procedures;

(H) Procedures for discipline and supervision of children;

(I) Standards for the provision of nutritious meals and snacks;

(J) Procedures for screening children, including any necessary physical examinations and the immunizations required pursuant to section 5104.014 of the Revised Code;

(K) Procedures for screening employees, including any necessary physical examinations and immunizations;

(L) Methods for encouraging parental participation in the type A home and methods for ensuring that the rights of children, parents, and employees are protected and that the responsibilities of parents and employees are met;

(M) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the type A home while under the care of a type A home employee;

(N) Procedures for record keeping, organization, and administration;

(O) Procedures for issuing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;

(P) Inspection procedures;

(Q) Procedures and standards for setting initial license application fees;

(R) Procedures for receiving, recording, and responding to complaints about type A homes;

- (S) Procedures for enforcing section 5104.04 of the Revised Code;
- (T) A standard requiring the inclusion of a current department of job and family services toll-free telephone number on each type A home license that any person may use to report a suspected violation by the type A home of this chapter or rules adopted pursuant to this chapter;
- (U) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;
- (V) Standards providing for the special needs of children who are handicapped or who require treatment for health conditions while the child is receiving child care or publicly funded child care in the type A home;
- (W) Standards for the maximum number of children per child-care staff member;
- (X) Requirements for the amount of usable indoor floor space for each child;
- (Y) Requirements for safe outdoor play space;
- (Z) Qualifications and training requirements for administrators and for child-care staff members;
- (AA) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type A home during its hours of operation;
- (BB) Standards for the preparation and distribution of a roster of parents, custodians, and guardians;
- (CC) Minimum requirements for instructional time for type A homes rated through the step up to quality program established pursuant to section 5104.29 of the Revised Code;
- (DD) Any other procedures and standards necessary to carry out the provisions of this chapter regarding type A homes.

**Sec. 5104.018.** The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code governing the licensure of type B family day-care homes. The rules shall provide for safeguarding the health, safety, and welfare of children receiving child care or publicly funded child care in a licensed type B family day-care home and shall include all of the following:

- (A) Requirements for the type B home to notify parents with children in the type B home that the type B home is certified as a foster home under section 5103.03 of the Revised Code;
- (B) Standards for ensuring that the type B home and the physical surroundings of the type B home are safe and sanitary, including physical environment, physical plant, and equipment;
- (C) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the home;
- (D) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;
- (E) Admission policies and procedures;
- (F) Health care, first aid and emergency procedures;
- (G) Procedures for the care of sick children;
- (H) Procedures for discipline and supervision of children;

- (I) Nutritional standards;
- (J) Procedures for screening children, including any necessary physical examinations and the immunizations required pursuant to section 5104.014 of the Revised Code;
- (K) Procedures for screening administrators and employees, including any necessary physical examinations and immunizations;
- (L) Methods of encouraging parental participation and ensuring that the rights of children, parents, and administrators are protected and the responsibilities of parents and administrators are met;
- (M) Standards for the safe transport of children when under the care of administrators;
- (N) Procedures for issuing, denying, or revoking licenses;
- (O) Procedures for the inspection of type B homes that require, at a minimum, that each type B home be inspected prior to licensure to ensure that the home is safe and sanitary;
- (P) Procedures for record keeping and evaluation;
- (Q) Procedures for receiving, recording, and responding to complaints;
- (R) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving child care or publicly funded child care in the type B home;
- (S) Requirements for the amount of usable indoor floor space for each child;
- (T) Requirements for safe outdoor play space;
- (U) Qualification and training requirements for administrators;
- (V) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type B home during its hours of operation;
- (W) Requirements for the type B home to notify parents with children in the type B home that the type B home is certified as a foster home under section 5103.03 of the Revised Code;
- (X) Minimum requirements for instructional time for type B homes rated through the step up to quality program established pursuant to section 5104.29 of the Revised Code;
- (Y) Any other procedures and standards necessary to carry out the provisions of this chapter regarding licensure of type B homes.

**Sec. 5104.03.** (A) As used in this section, "owner" has the same meaning as in section 5104.01 of the Revised Code, except that "owner" also includes a firm, organization, institution, or agency, as well as any individual governing board members, partners, or authorized representatives of the owner.

(B) Any person, firm, organization, institution, or agency seeking to establish a child day-care center, type A family day-care home, or licensed type B family day-care home shall apply for a license to the director of job and family services on such form as the director prescribes. The director shall provide at no charge to each applicant for licensure a copy of the child care license requirements in this chapter and a copy of the rules adopted pursuant to this chapter. The copies may be provided in paper or electronic form.

Fees shall be set by the director pursuant to sections 5104.015, 5104.017, and 5104.018 of the Revised Code and shall be paid at the time of application for a license to operate a center, type A home, or type B home. Fees collected under this section shall be paid into the state treasury to the credit of the general revenue fund.

(C)(1) Upon filing of the application for a license, the director shall investigate and inspect the center, type A home, or type B home to determine the license capacity for each age category of children of the center, type A home, or type B home and to determine whether the center, type A home, or type B home complies with this chapter and rules adopted pursuant to this chapter. When, after investigation and inspection, the director is satisfied that this chapter and rules adopted pursuant to it are complied with, subject to division (I) of this section, a license shall be issued as soon as practicable in such form and manner as prescribed by the director. The license shall be designated as provisional and shall be valid for twelve months from the date of issuance unless revoked.

(2) The director may contract with a government entity or a private nonprofit entity for the entity to inspect type A or type B family day-care homes pursuant to this section. If the director contracts with a government entity or private nonprofit entity for that purpose, the entity may contract with another government entity or private nonprofit entity for the other entity to inspect type A or type B homes pursuant to this section. The director, government entity, or private nonprofit entity shall conduct an inspection prior to the issuance of a license for a type A or type B home and, as part of that inspection, ensure that the home is safe and sanitary.

(D)(1) On receipt of an application for licensure as a type B family day-care home to provide publicly funded child care, the director shall search the uniform statewide automated child welfare information system for information concerning any abuse or neglect report made pursuant to section 2151.421 of the Revised Code of which the applicant, any other adult residing in the applicant's home, or a person designated by the applicant to be an emergency or substitute caregiver for the applicant is the subject.

(2) The director shall consider any information discovered pursuant to division (D)(1) of this section or that is provided by a public children services agency pursuant to section 5153.175 of the Revised Code. If the director determines that the information, when viewed within the totality of the circumstances, reasonably leads to the conclusion that the applicant may directly or indirectly endanger the health, safety, or welfare of children, the director shall deny the application for licensure or revoke the license of a type B family day-care home.

(E) The director shall investigate and inspect the center, type A home, or type B home at least once during operation under a license designated as provisional. If after the investigation and inspection the director determines that the requirements of this chapter and rules adopted pursuant to this chapter are met, subject to division (I) of this section, the director shall issue a new license to the center or home.

(F) Each license shall state the name of the licensee, the name of the administrator, the address of the center, type A home, or licensed type B home, and the license capacity for each age category of children. The license shall include thereon, in accordance with sections 5104.015, 5104.017, and 5104.018 of the Revised Code, the toll-free telephone number to be used by persons suspecting that the center, type A home, or licensed type B home has violated a provision of this chapter or rules adopted pursuant to this chapter. A license is valid only for the licensee, administrator, address, and license capacity for each age category of children designated on the license. The license capacity specified on the license is the maximum number of children in each age category that may be cared for in the center, type A home, or licensed type B home at one time.

The center or type A home licensee shall notify the director when the administrator of the

center or home changes. The director shall amend the current license to reflect a change in an administrator, if the administrator meets the requirements of this chapter and rules adopted pursuant to this chapter, or a change in license capacity for any age category of children as determined by the director of job and family services.

(G) If the director revokes the license of a center, a type A home, or a type B home, the director shall not issue another license to the owner of the center, type A home, or type B home until five years have elapsed from the date the license is revoked.

If the director denies an application for a license, the director shall not consider another application from the applicant until five years have elapsed from the date the application is denied.

(H) If during the application for licensure process the director determines that the license of the owner has been revoked, the investigation of the center, type A home, or type B home shall cease. This action does not constitute denial of the application and may not be appealed under division (I) of this section.

(I)(1) Except as provided in division (I)(2) of this section, all actions of the director with respect to licensing centers, type A homes, or type B homes, refusal to license, and revocation of a license shall be in accordance with Chapter 119. of the Revised Code. Except as provided in division (I)(2) of this section, any applicant who is denied a license or any owner whose license is revoked may appeal in accordance with section 119.12 of the Revised Code.

(2) The following actions by the director are not subject to Chapter 119. of the Revised Code:

(a) The director does not issue a license to the owner of a center, type A home, or type B home because the owner sought a license before five years had elapsed from the date the previous license was revoked.

(b) The director does not issue a license because the applicant applied for licensure before five years had elapsed from the date the previous application was denied.

(J) In no case shall the director issue a license under this section for a center, type A home, or type B home if the director, based on documentation provided by the appropriate county department of job and family services, determines that the applicant had been certified as a type B family day-care home when such certifications were issued by county departments prior to January 1, 2014, that the county department revoked that certification within the immediately preceding five years, that the revocation was based on the applicant's refusal or inability to comply with the criteria for certification, and that the refusal or inability resulted in a risk to the health or safety of children.

(K)(1) Except as provided in division (K)(2) of this section, an administrator of a type B family day-care home that receives a license pursuant to this section to provide publicly funded child care is an independent contractor and is not an employee of the department of job and family services.

(2) For purposes of Chapter 4141. of the Revised Code, determinations concerning the employment of an administrator of a type B family day-care home that receives a license pursuant to this section shall be determined under Chapter 4141. of the Revised Code.

**Sec. 5104.036.** (A) All child-care staff members of a child day-care center shall be at least eighteen years of age, shall comply with the training requirements set forth in rules adopted pursuant to section 5104.015 of the Revised Code, and shall furnish the director of job and family services or the director's designee evidence of at least high school graduation or a certificate of high school

equivalence issued by the department of education or a primary-secondary education or higher education agency of another state or evidence of completion of a training program approved by the department of job and family services or state board of education, except as follows:

(B) A child-care staff member may be less than eighteen years of age if the staff member is either of the following:

(1) A graduate of a two-year vocational child-care training program approved by the state board of education;

(2) A student enrolled in the second year of a vocational child-care training program approved by the state board of education which leads to high school graduation, provided that the student performs the student's duties in the child day-care center under the continuous supervision of an experienced child-care staff member, receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school, and meets all other requirements of this chapter and rules adopted pursuant to this chapter.

(C) A child-care staff member shall be exempt from the educational requirements of division (A) of this section if the staff member:

(1) Prior to January 1, 1972, was employed or designated by a child day-care center and has been continuously employed since either by the same child day-care center employer or at the same child day-care center;

(2) Is a student enrolled in the second year of a vocational child-care training program approved by the state board of education which leads to high school graduation, provided that the student performs the student's duties in the child day-care center under the continuous supervision of an experienced child-care staff member, receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school, and meets all other requirements of this chapter and rules adopted pursuant to this chapter;

(3) Is receiving or has completed the final year of instruction at home as authorized under section 3321.04 of the Revised Code or has graduated from a nonchartered, nonpublic school in Ohio.

**Sec. 5104.04.** (A) The department of job and family services shall establish procedures to be followed in investigating, inspecting, and licensing child day-care centers, type A family day-care homes, and licensed type B family day-care homes.

(B)(1)(a) The department shall, at least once during every twelve-month period of operation of a center, type A home, or licensed type B home, inspect the center, type A home, or licensed type B home. The department shall inspect a part-time center or part-time type A home at least once during every twelve-month period of operation. The department shall provide a written inspection report to the licensee within a reasonable time after each inspection. The licensee shall display its most recent inspection report in a conspicuous place in the center, type A home, or licensed type B home.

Inspections may be unannounced. No person, firm, organization, institution, or agency shall interfere with the inspection of a center, type A home, or licensed type B home by any state or local official engaged in performing duties required of the state or local official by this chapter or rules adopted pursuant to this chapter, including inspecting the center, type A home, or licensed type B home, reviewing records, or interviewing licensees, employees, children, or parents.

(b) Upon receipt of any complaint that a center, type A home or licensed type B home is out of compliance with the requirements of this chapter or rules adopted pursuant to this chapter, the department shall investigate the center or home, and both of the following apply:

(i) If the complaint alleges that a child suffered physical harm while receiving child care at the center or home or that the noncompliance alleged in the complaint involved, resulted in, or poses a substantial risk of physical harm to a child receiving child care at the center or home, the department shall inspect the center or home.

(ii) If division (B)(1)(b)(i) of this section does not apply regarding the complaint, the department may inspect the center or home.

(c) Division (B)(1)(b) of this section does not limit, restrict, or negate any duty of the department to inspect a center, type A home, or licensed type B home that otherwise is imposed under this section, or any authority of the department to inspect a center, type A home, or licensed type B home that otherwise is granted under this section when the department believes the inspection is necessary and it is permitted under the grant.

(2) If the department implements an instrument-based program monitoring information system, it may use an indicator checklist to comply with division (B)(1) of this section.

(3) The department shall contract with a third party by the first day of October in each even-numbered year to collect information concerning the amounts charged by the center or home for providing child care services for use in establishing reimbursement ceilings and payment pursuant to section 5104.30 of the Revised Code. The third party shall compile the information and report the results of the survey to the department not later than the first day of December in each even-numbered year.

(C) The department may deny an application or revoke a license of a center, type A home, or licensed type B home, if the applicant knowingly makes a false statement on the application, the center or home does not comply with the requirements of this chapter or rules adopted pursuant to this chapter, or the applicant or owner has pleaded guilty to or been convicted of an offense described in division (A)(5) of section 109.572 of the Revised Code.

(D) If the department finds, after notice and hearing pursuant to Chapter 119. of the Revised Code, that any applicant, person, firm, organization, institution, or agency applying for licensure or licensed under section 5104.03 of the Revised Code is in violation of any provision of this chapter or rules adopted pursuant to this chapter, the department may issue an order of denial to the applicant or an order of revocation to the center, type A home, or licensed type B home revoking the license previously issued by the department. Upon the issuance of such an order, the person whose application is denied or whose license is revoked may appeal in accordance with section 119.12 of the Revised Code.

(E) The surrender of a center, type A home, or licensed type B home license to the department or the withdrawal of an application for licensure by the owner or administrator of the center, type A home, or licensed type B home shall not prohibit the department from instituting any of the actions set forth in this section.

(F) Whenever the department receives a complaint, is advised, or otherwise has any reason to believe that a center or type A home is providing child care without a license issued pursuant to section 5104.03 and is not exempt from licensing pursuant to section 5104.02 of the Revised Code,

the department shall investigate the center or type A home and may inspect the areas children have access to or areas necessary for the care of children in the center or type A home during suspected hours of operation to determine whether the center or type A home is subject to the requirements of this chapter or rules adopted pursuant to this chapter.

(G) The department, upon determining that the center or type A home is operating without a license, shall notify the attorney general, the prosecuting attorney of the county in which the center or type A home is located, or the city attorney, village solicitor, or other chief legal officer of the municipal corporation in which the center or type A home is located, that the center or type A home is operating without a license. Upon receipt of the notification, the attorney general, prosecuting attorney, city attorney, village solicitor, or other chief legal officer of a municipal corporation shall file a complaint in the court of common pleas of the county in which the center or type A home is located requesting that the court grant an order enjoining the owner from operating the center or type A home in violation of section 5104.02 of the Revised Code. The court shall grant such injunctive relief upon a showing that the respondent named in the complaint is operating a center or type A home and is doing so without a license.

(H) The department shall prepare an annual report on inspections conducted under this section. The report shall include the number of inspections conducted, the number and types of violations found, and the steps taken to address the violations. The department shall file the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives on or before the first day of January of each year, beginning in 1999.

**Sec. 5104.042.**

**Sec. 5104.09.** No administrator, licensee, or child-care staff member shall discriminate in the enrollment of children in a child day-care center upon the basis of race, color, religion, sex, or national origin.

**Sec. 5104.29.**

**Sec. 5104.30.** (A) The department of job and family services is hereby designated as the state agency responsible for administration and coordination of federal and state funding for publicly funded child care in this state. Publicly funded child care shall be provided to the following:

(1) Recipients of transitional child care as provided under section 5104.34 of the Revised Code;

(2) Participants in the Ohio works first program established under Chapter 5107. of the Revised Code;

(3) Individuals who would be participating in the Ohio works first program if not for a sanction under section 5107.16 of the Revised Code and who continue to participate in a work activity, developmental activity, or alternative work activity pursuant to an assignment under section 5107.42 of the Revised Code;

(4) A family receiving publicly funded child care on October 1, 1997, until the family's income reaches one hundred fifty per cent of the federal poverty line;

(5) Subject to available funds, other individuals determined eligible in accordance with rules adopted under section 5104.38 of the Revised Code.

The department shall apply to the United States department of health and human services for



authority to operate a coordinated program for publicly funded child care, if the director of job and family services determines that the application is necessary. For purposes of this section, the department of job and family services may enter into agreements with other state agencies that are involved in regulation or funding of child care. The department shall consider the special needs of migrant workers when it administers and coordinates publicly funded child care and shall develop appropriate procedures for accommodating the needs of migrant workers for publicly funded child care.

(B) The department of job and family services shall distribute state and federal funds for publicly funded child care, including appropriations of state funds for publicly funded child care and appropriations of federal funds available under the child care block grant act, Title IV-A, and Title XX. The department may use any state funds appropriated for publicly funded child care as the state share required to match any federal funds appropriated for publicly funded child care.

(C) In the use of federal funds available under the child care block grant act, all of the following apply:

(1) The department may use the federal funds to hire staff to prepare any rules required under this chapter and to administer and coordinate federal and state funding for publicly funded child care.

(2) Not more than five per cent of the aggregate amount of the federal funds received for a fiscal year may be expended for administrative costs.

(3) The department shall allocate and use at least four per cent of the federal funds for the following:

(a) Activities designed to provide comprehensive consumer education to parents and the public;

(b) Activities that increase parental choice;

(c) Activities, including child care resource and referral services, designed to improve the quality, and increase the supply, of child care;

(d) Establishing the step up to quality program pursuant to section 5104.29 of the Revised Code.

(4) The department shall ensure that the federal funds will be used only to supplement, and will not be used to supplant, federal, state, and local funds available on the effective date of the child care block grant act for publicly funded child care and related programs. If authorized by rules adopted by the department pursuant to section 5104.42 of the Revised Code, county departments of job and family services may purchase child care from funds obtained through any other means.

(D) The department shall encourage the development of suitable child care throughout the state, especially in areas with high concentrations of recipients of public assistance and families with low incomes. The department shall encourage the development of suitable child care designed to accommodate the special needs of migrant workers. On request, the department, through its employees or contracts with state or community child care resource and referral service organizations, shall provide consultation to groups and individuals interested in developing child care. The department of job and family services may enter into interagency agreements with the department of education, the chancellor of higher education, the department of development, and other state agencies and entities whenever the cooperative efforts of the other state agencies and entities are necessary for the department of job and family services to fulfill its duties and

responsibilities under this chapter.

The department shall develop and maintain a registry of persons providing child care. The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures and requirements for the registry's administration.

(E)(1) The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing both of the following:

(a) Reimbursement ceilings for providers of publicly funded child care not later than the first day of July in each odd-numbered year;

(b) A procedure for reimbursing and paying providers of publicly funded child care.

(2) In establishing reimbursement ceilings under division (E)(1)(a) of this section, the director shall do all of the following:

(a) Use the information obtained under division (B)(3) of section 5104.04 of the Revised Code;

(b) Establish an enhanced reimbursement ceiling for providers who provide child care for caretaker parents who work nontraditional hours;

(c) For an in-home aide, establish an hourly reimbursement ceiling;

(d) With regard to the step up to quality program established pursuant to section 5104.29 of the Revised Code, do both of the following:

(i) Establish enhanced reimbursement ceilings for child day-care providers that participate in the program and maintain quality ratings;

(ii) Weigh any reduction in reimbursement ceilings more heavily against providers that do not participate in the program or do not maintain quality ratings.

(3) In establishing reimbursement ceilings under division (E)(1)(a) of this section, the director may establish different reimbursement ceilings based on any of the following:

(a) Geographic location of the provider;

(b) Type of care provided;

(c) Age of the child served;

(d) Special needs of the child served;

(e) Whether the expanded hours of service are provided;

(f) Whether weekend service is provided;

(g) Whether the provider has exceeded the minimum requirements of state statutes and rules governing child care;

(h) Any other factors the director considers appropriate.

**Sec. 5104.31.** (A) Publicly funded child care may be provided only by the following:

(1) Any of the following licensed by the department of job and family services pursuant to section 5104.03 of the Revised Code or pursuant to rules adopted under section 5104.018 of the Revised Code:

(a) A child day-care center, including a parent cooperative child day-care center;

(b) A type A family day-care home, including a parent cooperative type A family day-care home;

(c) A licensed type B family day-care home.

(2) An in-home aide who has been certified by the county department of job and family

services pursuant to section 5104.12 of the Revised Code;

(3) A child day camp approved pursuant to section 5104.22 of the Revised Code;

(4) A licensed preschool program;

(5) A licensed school child program;

(6) A border state child care provider, except that a border state child care provider may provide publicly funded child care only to an individual who resides in an Ohio county that borders the state in which the provider is located.

(B) Publicly funded child day-care may be provided in a child's own home only by an in-home aide.

(C) Beginning July 1, 2020, publicly funded child care may be provided only by a provider that is rated through the step up to quality program established pursuant to section 5104.29 of the Revised Code.

**Sec. 5104.34.** (A)(1) Each county department of job and family services shall implement procedures for making determinations of eligibility for publicly funded child care. Under those procedures, the eligibility determination for each applicant shall be made no later than thirty calendar days from the date the county department receives a completed application for publicly funded child care. Each applicant shall be notified promptly of the results of the eligibility determination. An applicant aggrieved by a decision or delay in making an eligibility determination may appeal the decision or delay to the department of job and family services in accordance with section 5101.35 of the Revised Code. The due process rights of applicants shall be protected.

To the extent permitted by federal law, the county department may make all determinations of eligibility for publicly funded child care, may contract with child care providers or child care resource and referral service organizations for the providers or resource and referral service organizations to make all or any part of the determinations, and may contract with child care providers or child care resource and referral service organizations for the providers or resource and referral service organizations to collect specified information for use by the county department in making determinations. If a county department contracts with a child care provider or a child care resource and referral service organization for eligibility determinations or for the collection of information, the contract shall require the provider or resource and referral service organization to make each eligibility determination no later than thirty calendar days from the date the provider or resource and referral organization receives a completed application that is the basis of the determination and to collect and transmit all necessary information to the county department within a period of time that enables the county department to make each eligibility determination no later than thirty days after the filing of the application that is the basis of the determination.

The county department may station employees of the department in various locations throughout the county to collect information relevant to applications for publicly funded child care and to make eligibility determinations. The county department, child care provider, and child care resource and referral service organization shall make each determination of eligibility for publicly funded child care no later than thirty days after the filing of the application that is the basis of the determination, shall make each determination in accordance with any relevant rules adopted pursuant to section 5104.38 of the Revised Code, and shall notify promptly each applicant for publicly funded child care of the results of the determination of the applicant's eligibility.

The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code for monitoring the eligibility determination process. In accordance with those rules, the state department shall monitor eligibility determinations made by county departments of job and family services and shall direct any entity that is not in compliance with this division or any rule adopted under this division to implement corrective action specified by the department.

(2)(a) All eligibility determinations for publicly funded child care shall be made in accordance with rules adopted pursuant to division (A) of section 5104.38 of the Revised Code. Except as otherwise provided in this section, both of the following apply:

(i) Publicly funded child care may be provided only to eligible infants, toddlers, preschool-age children, and school-age children under age thirteen.

(ii) For an applicant to be eligible for publicly funded child care, the caretaker parent must be employed or participating in a program of education or training for an amount of time reasonably related to the time that the parent's children are receiving publicly funded child care. This restriction does not apply to families whose children are eligible for protective child care.

(b) In accordance with rules adopted under division (B) of section 5104.38 of the Revised Code, an applicant may receive publicly funded child care while the county department determines eligibility. An applicant may receive publicly funded child care while a county department determines eligibility only once during a twelve-month period. If the county department determines that an applicant is not eligible for publicly funded child care, the licensed child care program shall be paid for providing publicly funded child care for up to five days after that determination if the county department received a completed application with all required documentation. A program may appeal a denial of payment under this division.

(c) If a caretaker parent who has been determined eligible to receive publicly funded child care no longer meets the requirements of division (A)(2)(a)(ii) of this section, the caretaker parent may continue to receive publicly funded child care for a period of up to thirteen weeks not to extend beyond the caretaker parent's twelve-month eligibility period. Such authorization may be given only once during a twelve-month period.

Subject to available funds, the department of job and family services shall allow a family to receive publicly funded child care unless the family's income exceeds the maximum income eligibility limit. Initial and continued eligibility for publicly funded child care is subject to available funds unless the family is receiving child care pursuant to division (A)(1), (2), (3), or (4) of section 5104.30 of the Revised Code. If the department must limit eligibility due to lack of available funds, it shall give first priority for publicly funded child care to an assistance group whose income is not more than the maximum income eligibility limit that received transitional child care in the previous month but is no longer eligible because the twelve-month period has expired. Such an assistance group shall continue to receive priority for publicly funded child care until its income exceeds the maximum income eligibility limit.

(3) An assistance group that ceases to participate in the Ohio works first program established under Chapter 5107. of the Revised Code is eligible for transitional child care at any time during the immediately following twelve-month period that both of the following apply:

(a) The assistance group requires child care due to employment;

(b) The assistance group's income is not more than one hundred fifty per cent of the federal

poverty line.

An assistance group ineligible to participate in the Ohio works first program pursuant to section 5101.83 or section 5107.16 of the Revised Code is not eligible for transitional child care.

(B) To the extent permitted by federal law, the department of job and family services may require a caretaker parent determined to be eligible for publicly funded child care to pay a fee according to the schedule of fees established in rules adopted under section 5104.38 of the Revised Code. The department shall make protective child care services available to children without regard to the income or assets of the caretaker parent of the child.

(C) A caretaker parent receiving publicly funded child care shall report to the entity that determined eligibility any changes in status with respect to employment or participation in a program of education or training not later than ten calendar days after the change occurs.

(D) If the department of job and family services determines that available resources are not sufficient to provide publicly funded child care to all eligible families who request it, the department may establish a waiting list. The department may establish separate waiting lists within the waiting list based on income.

(E) A caretaker parent shall not receive full-time publicly funded child care from more than one child care provider per child during a week, unless a county department grants the family an exemption for one of the following reasons:

- ~~(a)~~(1) The child needs additional care during non-traditional hours;
- ~~(b)~~(2) The child needs to change providers in the middle of the week and the hours of care provided by the providers do not overlap;
- ~~(c)~~(3) The child's provider is closed on scheduled school days off or on calamity days;
- ~~(d)~~(4) The child is enrolled in a part-time program participating in the tiered quality rating and improvement system established under section 5104.30 of the Revised Code and needs care from an additional part-time provider.

(F) As used in this section, "maximum income eligibility limit" means the amount of income specified in rules adopted under division (A) of section 5104.38 of the Revised Code.

**Sec. 5104.37.** (A) As used in this section, "eligible provider" means an individual or entity eligible to provide publicly funded child care pursuant to section 5104.31 of the Revised Code.

(B) The department of job and family services may withhold any money due under this chapter and recover through any appropriate method any money erroneously paid under this chapter if evidence exists of less than full compliance with this chapter and any rules adopted under it.

(C) Notwithstanding any other provision of this chapter to the contrary, the department shall take action against an eligible provider as described in this section.

(D) Subject to the notice and appeal provisions of divisions (G) and (H) of this section, the department may suspend a contract entered into under section 5104.32 of the Revised Code with an eligible provider if the department has initiated an investigation of the provider for either of the following reasons:

(1) The department has evidence that the eligible provider received an improper child care payment as a result of the provider's intentional act.

(2) The department receives notice and a copy of an indictment, information, or complaint charging the eligible provider or the owner or operator of the provider with committing any of the

following:

(a) An act that is a felony or misdemeanor relating to providing or billing for publicly funded child care or providing management or administrative services relating to providing publicly funded child care;

(b) An act that would constitute an offense described in division (A)(5) of section 109.572 of the Revised Code.

(E)(1) Except as provided in division (E)(2) of this section, the suspension of a contract under division (D) of this section shall continue until the department completes its investigation or all criminal charges are disposed of through dismissal, a finding of not guilty, conviction, or a plea of guilty.

(2) If the department initiates the termination of a contract that has been suspended pursuant to division (D) of this section, the suspension shall continue until the termination process is completed.

(F) An eligible provider shall not provide publicly funded child care while the provider's contract is under suspension pursuant to division (D) of this section. As of the date the eligible provider's contract is suspended, the department shall withhold payment to the eligible provider for publicly funded child care.

(G) Before suspending an eligible provider's contract pursuant to division (D) of this section, the department shall notify the eligible provider. The notice shall include all of the following:

(1) A description, which need not disclose specific information concerning any ongoing administrative or criminal investigation, of the reason that the department initiated its investigation of the provider;

(2) A statement that the eligible provider will be prohibited from providing publicly funded child care while the contract is under suspension;

(3) A statement that the suspension will continue until the department completes its investigation or all criminal charges are disposed of through dismissal, a finding of not guilty, conviction, or a plea of guilty, and that if the department initiates the termination of the contract, the suspension will continue until the termination process is completed.

(H) An eligible provider may file an appeal with the department regarding any proposal by the department to suspend the provider's contract pursuant to division (D) of this section. The appeal must be received by the department not later than fifteen days after the date the provider receives the notification described in division (G) of this section. The department shall review the evidence and issue a decision not later than thirty days after receiving the appeal. The department shall not suspend a contract pursuant to division (D) of this section until the time for filing the appeal has passed or, if the provider files a timely appeal, the department has issued a decision on the appeal.

**Sec. 5104.38.** In addition to any other rules adopted under this chapter, the director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code governing financial and administrative requirements for publicly funded child care and establishing all of the following:

(A) Procedures and criteria to be used in making determinations of eligibility for publicly funded child care that give priority to children of families with lower incomes and procedures and criteria for eligibility for publicly funded protective child care. The rules shall specify the maximum

amount of income a family may have for initial and continued eligibility. The maximum amount shall not exceed three hundred per cent of the federal poverty line. The rules may specify exceptions to the eligibility requirements in the case of a family that previously received publicly funded child care and is seeking to have the child care reinstated after the family's eligibility was terminated.

(B) Procedures under which an applicant for publicly funded child care may receive publicly funded child care while the county department of job and family services determines eligibility and under which a licensed child care program may appeal a denial of payment under division (A)(2)(b) of section 5104.34 of the Revised Code;

(C) A schedule of fees requiring all eligible caretaker parents to pay a fee for publicly funded child care according to income and family size, which shall be uniform for all types of publicly funded child care, except as authorized by rule, and, to the extent permitted by federal law, shall permit the use of state and federal funds to pay the customary deposits and other advance payments that a provider charges all children who receive child care from that provider.

(D) A formula for determining the amount of state and federal funds appropriated for publicly funded child care that may be allocated to a county department to use for administrative purposes;

(E) Procedures to be followed by the department and county departments in recruiting individuals and groups to become providers of child care;

(F) Procedures to be followed in establishing state or local programs designed to assist individuals who are eligible for publicly funded child care in identifying the resources available to them and to refer the individuals to appropriate sources to obtain child care;

(G) Procedures to deal with fraud and abuse committed by either recipients or providers of publicly funded child care;

(H) Procedures for establishing a child care grant or loan program in accordance with the child care block grant act;

(I) Standards and procedures for applicants to apply for grants and loans, and for the department to make grants and loans;

(J) A definition of "person who stands in loco parentis" for the purposes of division (JJ)(1) of section 5104.01 of the Revised Code;

(K) Procedures for a county department of job and family services to follow in making eligibility determinations and redeterminations for publicly funded child care available through telephone, computer, and other means at locations other than the county department;

(L) If the director establishes a different reimbursement ceiling under division (E)(3)(d) of section 5104.30 of the Revised Code, standards and procedures for determining the amount of the higher payment that is to be issued to a child care provider based on the special needs of the child being served;

(M) To the extent permitted by federal law, procedures for paying for up to thirty days of child care for a child whose caretaker parent is seeking employment, taking part in employment orientation activities, or taking part in activities in anticipation of enrolling in or attending an education or training program or activity, if the employment or the education or training program or activity is expected to begin within the thirty-day period;

(N) Any other rules necessary to carry out sections 5104.30 to 5104.43 of the Revised Code.

**Sec. 5104.99.** (A) Whoever violates section 5104.02 of the Revised Code shall be punished

as follows:

(1) For each offense, the offender shall be fined not less than one hundred dollars nor more than five hundred dollars multiplied by the number of children receiving child care at the child day-care center or type A family day-care home that either exceeds the number of children to which a type B family day-care home may provide child care or, if the offender is a licensed type A family day-care home that is operating as a child day-care center without being licensed as a center, exceeds the license capacity of the type A home.

(2) In addition to the fine specified in division (A)(1) of this section, all of the following apply:

(a) Except as provided in divisions (A)(2)(b), (c), and (d) of this section, the court shall order the offender to reduce the number of children to which it provides child care to a number that does not exceed either the number of children to which a type B family day-care home may provide child care or, if the offender is a licensed type A family day-care home that is operating as a child day-care center without being licensed as a center, the license capacity of the type A home.

(b) If the offender previously has been convicted of or pleaded guilty to one violation of section 5104.02 of the Revised Code, the court shall order the offender to cease the provision of child care to any person until it obtains a child day-care center license or a type A family day-care home license, as appropriate, under section 5104.03 of the Revised Code.

(c) If the offender previously has been convicted of or pleaded guilty to two violations of section 5104.02 of the Revised Code, the offender is guilty of a misdemeanor of the first degree, and the court shall order the offender to cease the provision of child care to any person until it obtains a child day-care center license or a type A family day-care home license, as appropriate, under section 5104.03 of the Revised Code. The court shall impose the fine specified in division (A)(1) of this section and may impose an additional fine provided that the total amount of the fines so imposed does not exceed the maximum fine authorized for a misdemeanor of the first degree under section 2929.28 of the Revised Code.

(d) If the offender previously has been convicted of or pleaded guilty to three or more violations of section 5104.02 of the Revised Code, the offender is guilty of a felony of the fifth degree, and the court shall order the offender to cease the provision of child care to any person until it obtains a child day-care center license or a type A family day-care home license, as appropriate, under section 5104.03 of the Revised Code. The court shall impose the fine specified in division (A)(1) of this section and may impose an additional fine provided that the total amount of the fines so imposed does not exceed the maximum fine authorized for a felony of the fifth degree under section 2929.18 of the Revised Code.

(B) Whoever violates division (M)(4) of section 5104.013 of the Revised Code is guilty of a misdemeanor of the first degree. If the offender is a licensee of a center, type A home, or licensed type B home, the conviction shall constitute grounds for denial or revocation of an application for licensure pursuant to section 5104.04 of the Revised Code. Except as otherwise provided in this division, the offense established under division (M)(4) of section 5104.013 of the Revised Code is a strict liability offense, and section 2901.20 of the Revised Code does not apply. If the offender is a person eighteen years of age or older residing in a type A home or licensed type B home or is an employee of a center, type A home, or licensed type B home and if the licensee had knowledge of,



and acquiesced in, the commission of the offense, the conviction shall constitute grounds for denial or revocation of an application for licensure pursuant to section 5104.04 of the Revised Code.

(C) Whoever violates section 5104.09 of the Revised Code is guilty of a misdemeanor of the third degree.

**Sec. 5107.05.** The director of job and family services shall adopt rules to implement this chapter. The rules shall be consistent with Title IV-A, Title IV-D, federal regulations, state law, the Title IV-A state plan submitted to the United States secretary of health and human services under section 5101.80 of the Revised Code, amendments to the plan, and waivers granted by the United States secretary. Rules governing eligibility, program participation, and other applicant and participant requirements shall be adopted in accordance with Chapter 119. of the Revised Code. Rules governing financial and other administrative requirements applicable to the department of job and family services and county departments of job and family services shall be adopted in accordance with section 111.15 of the Revised Code.

(A) The rules shall specify, establish, or govern all of the following:

(1) A payment standard for Ohio works first based on federal and state appropriations that is increased in accordance with section 5107.04 of the Revised Code;

(2) For the purpose of section 5107.04 of the Revised Code, the method of determining the amount of cash assistance an assistance group receives under Ohio works first;

(3) Requirements for initial and continued eligibility for Ohio works first, including requirements regarding income, citizenship, age, residence, and assistance group composition;

(4) For the purpose of section 5107.12 of the Revised Code, application and verification procedures, including the minimum information an application must contain;

(5) The extent to which a participant of Ohio works first must notify, pursuant to section 5107.12 of the Revised Code, a county department of job and family services of additional income not previously reported to the county department;

(6) For the purpose of section 5107.16 of the Revised Code, both of the following:

(a) Standards for the determination of good cause for failure or refusal to comply in full with a provision of a self-sufficiency contract;

(b) The compliance activities a member of an assistance group must complete for the member to be considered to have ceased to fail or refuse to comply in full with a provision of a self-sufficiency contract.

(7) The department of job and family services providing written notice of a sanction under section 5107.161 of the Revised Code;

(8) For the purpose of division (B) of section 5107.17 of the Revised Code, the circumstances under which the adult member of an assistance group or an assistance group's minor head of household whose failure or refusal, without good cause, to comply in full with a provision of a self-sufficiency contract causes a sanction under section 5107.16 of the Revised Code must enter into a new, or amend an existing, self-sufficiency contract before the assistance group may resume participation in Ohio works first following the sanction;

(9) Requirements for the collection and distribution of support payments owed participants of Ohio works first pursuant to section 5107.20 of the Revised Code;

(10) For the purpose of section 5107.22 of the Revised Code, what constitutes cooperating in

establishing a minor child's paternity or establishing, modifying, or enforcing a child support order and good cause for failure or refusal to cooperate;

(11) The requirements governing the LEAP program, including the definitions of "equivalent of a high school diploma" and "good cause," and the incentives provided under the LEAP program;

(12) If the director implements section 5107.301 of the Revised Code, the requirements governing the award provided under that section, including the form that the award is to take and requirements an individual must satisfy to receive the award;

(13) Circumstances under which a county department of job and family services may exempt a minor head of household or adult from participating in a work activity or developmental activity for all or some of the weekly hours otherwise required by section 5107.43 of the Revised Code.

(14) The maximum amount of time the department will subsidize positions created by state agencies and political subdivisions under division (C) of section 5107.52 of the Revised Code;

(15) The implementation of sections 5107.71 to 5107.717 of the Revised Code by county departments of job and family services;

(16) A domestic violence screening process to be used for the purpose of division (A) of section 5107.71 of the Revised Code;

(17) The minimum frequency with which county departments of job and family services must redetermine a member of an assistance group's need for a waiver issued under section 5107.714 of the Revised Code;

(18) Requirements for work activities, developmental activities, and alternative work activities for Ohio works first participants.

(B) The rules adopted under division (A)(3) of this section regarding income shall specify what is countable income, gross earned income, and gross unearned income for the purpose of section 5107.10 of the Revised Code. The rules also shall specify the amount of an assistance group's gross earned income that is to be disregarded for the purpose of division (D)(3) of section 5107.10 of the Revised Code.

The rules adopted under division (A)(10) of this section shall be consistent with 42 U.S.C. 654(29).

The rules adopted under division (A)(13) of this section shall specify that the circumstances include that a school or place of work is closed due to a holiday or weather or other emergency and that an employer grants the minor head of household or adult leave for illness or earned vacation.

(C) The rules may provide that a county department of job and family services is not required to take action under section 5107.76 of the Revised Code to recover an erroneous payment under circumstances the rules specify.

**Sec. 5107.64.** County departments of job and family services shall establish and administer alternative work activities for minor heads of households and adults participating in Ohio works first. In establishing alternative work activities, county departments are not limited by the restrictions Title IV-A imposes on work activities. The following are examples of alternative work activities that a county department may establish:

(A) Parenting classes and life-skills training;

(B) Participation in addiction services provided by a community addiction services provider, as defined in section 5119.01 of the Revised Code;

(C) In the case of a homeless assistance group, finding a home;

(D) In the case of a minor head of household or adult with a disability, active work in an individual written rehabilitation plan with the opportunities for Ohioans with disabilities agency;

(E) In the case of a minor head of household or adult who has been the victim of domestic violence, residing in a domestic violence shelter, receiving counseling or treatment related to the domestic violence, or participating in criminal justice activities against the domestic violence offender;

(F) An education program under which a participant who does not speak English attends English as a second language course.

**Sec. 5115.04.** (A) The department of job and family services shall supervise and administer the disability financial assistance program, except that the department may require county departments of job and family services to perform any administrative function specified in rules adopted by the director of job and family services.

(B) If the department requires county departments to perform administrative functions under this section, the director shall adopt rules in accordance with section 111.15 of the Revised Code governing the performance of the functions to be performed by county departments. County departments shall perform the functions in accordance with the rules. The director shall conduct investigations to determine whether disability financial assistance is being administered in compliance with the Revised Code and rules adopted by the director.

(C) If disability financial assistance payments are made by the county department of job and family services, the department shall advance sufficient funds to provide the county treasurer with the amount estimated for the payments. Financial assistance payments shall be distributed in accordance with sections 126.35, 319.16, and 329.03 of the Revised Code.

**Sec. 5119.01.** (A) As used in this chapter:

(1) "Addiction" means the chronic and habitual use of alcoholic beverages, the use of a drug of abuse as defined in section 3719.011 of the Revised Code, or the use of gambling by an individual to the extent that the individual no longer can control the individual's use of alcohol, the individual becomes physically or psychologically dependent on the drug, the individual's use of alcohol or drugs endangers the health, safety, or welfare of the individual or others, or the individual's gambling causes psychological, financial, emotional, marital, legal, or other difficulties endangering the health, safety, or welfare of the individual or others.

(2) "Addiction services" means services, including intervention, for the treatment of persons with alcohol, drug, or gambling addictions, and for the prevention of such addictions.

(3) "Alcohol and drug addiction services" means services, including intervention, for the treatment of alcoholics or persons who abuse drugs of abuse and for the prevention of alcoholism and drug addiction.

(4) "Alcoholic" means a person suffering from alcoholism.

(5) "Alcoholism" means the chronic and habitual use of alcoholic beverages by an individual to the extent that the individual no longer can control the individual's use of alcohol or endangers the health, safety, or welfare of the individual or others.

(6) "Certifiable services and supports" means all of the following:

(a) Alcohol and drug addiction services;

(b) Mental health services;

(c) The types of recovery supports that are specified in rules adopted under section 5119.36 of the Revised Code as requiring certification under that section.

(7) "Community addiction services provider" means an agency, association, corporation, individual, or program that provides one or more of the following:

(a) Alcohol and drug addiction services that are certified by the department of mental health and addiction services under section 5119.36 of the Revised Code;

(b) Gambling addiction services;

(c) Recovery supports that are related to alcohol and drug addiction services or gambling addiction services and paid for with federal, state, or local funds administered by the department of mental health and addiction services or a board of alcohol, drug addiction, and mental health services.

(8) "Community mental health services provider" means an agency, association, corporation, individual, or program that provides either of the following:

(a) Mental health services that are certified by the department of mental health and addiction services under section 5119.36 of the Revised Code;

(b) Recovery supports that are related to mental health services and paid for with federal, state, or local funds administered by the department of mental health and addiction services or a board of alcohol, drug addiction, and mental health services.

(9) "Drug addiction" means the use of a drug of abuse, as defined in section 3719.011 of the Revised Code, by an individual to the extent that the individual becomes physically or psychologically dependent on the drug or endangers the health, safety, or welfare of the individual or others.

(10) "Gambling addiction" means the use of gambling by an individual to the extent that it causes psychological, financial, emotional, marital, legal, or other difficulties endangering the health, safety, or welfare of the individual or others.

(11) "Gambling addiction services" means services for the treatment of persons who have a gambling addiction and for the prevention of gambling addiction.

(12) "Hospital" means a hospital or inpatient unit licensed by the department of mental health and addiction services under section 5119.33 of the Revised Code, and any institution, hospital, or other place established, controlled, or supervised by the department under Chapter 5119. of the Revised Code.

(13) "Included opioid and co-occurring drug addiction services and recovery supports" means the addiction services and recovery supports that, pursuant to section 340.033 of the Revised Code, are included in the array of services and recovery supports for all levels of opioid and co-occurring drug addiction required to be included in the community-based continuum of care established under section 340.032 of the Revised Code.

(14) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

(15) "Mental health services" means services for the assessment, care, or treatment of persons who have a mental illness and for the prevention of mental illness.

(16) "Recovery supports" means assistance that is intended to help an individual who is an alcoholic or has a drug addiction or mental illness, or a member of such an individual's family, initiate and sustain the individual's recovery from alcoholism, drug addiction, or mental illness. "Recovery supports" does not mean alcohol and drug addiction services or mental health services.

(17)(a) "Residence" means a person's physical presence in a county with intent to remain there, except in either of the following circumstances:

(i) If a person is receiving a mental health treatment service at a facility that includes nighttime sleeping accommodations, "residence" means that county in which the person maintained the person's primary place of residence at the time the person entered the facility;

(ii) If a person is committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, "residence" means the county where the criminal charges were filed.

(b) When the residence of a person is disputed, the matter of residence shall be referred to the department of mental health and addiction services for investigation and determination. Residence shall not be a basis for a board of alcohol, drug addiction, and mental health services to deny services to any person present in the board's service district, and the board shall provide services for a person whose residence is in dispute while residence is being determined and for a person in an emergency situation.

(B) Any reference in this chapter to a board of alcohol, drug addiction, and mental health services also refers to an alcohol and drug addiction services board or a community mental health board in a service district in which an alcohol and drug addiction services board or a community mental health board has been established under section 340.021 or former section 340.02 of the Revised Code.

**Sec. 5119.10.** (A) The director of mental health and addiction services is the chief executive and appointing authority of the department of mental health and addiction services. The director may organize the department for its efficient operation, including creating divisions or offices as necessary. The director may establish procedures for the governance of the department, conduct of its employees and officers, performance of its business, and custody, use, and preservation of departmental records, papers, books, documents, and property. Whenever the Revised Code imposes a duty upon or requires an action of the department or any of its institutions, the director or the director's designee shall perform the action or duty in the name of the department, except that the medical director appointed pursuant to section 5119.11 of the Revised Code shall be responsible for decisions relating to medical diagnosis, treatment, rehabilitation, quality assurance, and the clinical aspects of the following: licensure of hospitals and residential facilities, research, community addiction and mental health plans, and certification and delivery of addiction services and mental health services.

(B) The director shall:

(1) Adopt rules for the proper execution of the powers and duties of the department with respect to the institutions under its control, and require the performance of additional duties by the officers of the institutions as necessary to fully meet the requirements, intents, and purposes of this chapter. In case of an apparent conflict between the powers conferred upon any managing officer and those conferred by such sections upon the department, the presumption shall be conclusive in favor of the department.

(2) Adopt rules for the nonpartisan management of the institutions under the department's control. An officer or employee of the department or any officer or employee of any institution under its control who, by solicitation or otherwise, exerts influence directly or indirectly to induce any other officer or employee of the department or any of its institutions to adopt the exerting officer's or employee's political views or to favor any particular person, issue, or candidate for office shall be removed from the exerting officer's or employee's office or position, by the department in case of an officer or employee, and by the governor in case of the director.

(3) Appoint such employees, including the medical director, as are necessary for the efficient conduct of the department, and prescribe their titles and duties;

(4) Prescribe the forms of affidavits, applications, medical certificates, orders of hospitalization and release, and all other forms, reports, and records that are required in the hospitalization or admission and release of all persons to the institutions under the control of the department, or are otherwise required under this chapter or Chapter 5122. of the Revised Code;

(5) Exercise the powers and perform the duties relating to addiction and mental health facilities, addiction services, mental health services, and recovery supports that are assigned to the director under this chapter and Chapter 340. of the Revised Code;

(6) Develop and implement clinical evaluation and monitoring of services that are operated by the department;

(7) Adopt rules establishing standards for the performance of evaluations by a forensic center or other psychiatric program or facility of the mental condition of defendants ordered by the court under section 2919.271, or 2945.371 of the Revised Code, and for the treatment of defendants who have been found incompetent to stand trial and ordered by the court under section 2945.38, 2945.39, 2945.401, or 2945.402 of the Revised Code to receive treatment in facilities;

(8) On behalf of the department, have the authority and responsibility for entering into contracts and other agreements with providers, agencies, institutions, and other entities, both public and private, as necessary for the department to carry out its duties under this chapter and Chapters 340., 2919., 2945., and 5122. of the Revised Code. Chapter 125. of the Revised Code does not apply to contracts the director enters into under this section for addiction services, mental health services, or recovery supports provided to individuals who have an addiction or mental illness by providers, agencies, institutions, and other entities not owned or operated by the department.

(9) Adopt rules in accordance with Chapter 119. of the Revised Code specifying the supplemental services that may be provided through a trust authorized by section 5815.28 of the Revised Code;

(10) Adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for the maintenance and distribution to a beneficiary of assets of a trust authorized by section 5815.28 of the Revised Code.

(C) The director may contract with hospitals licensed by the department under section 5119.33 of the Revised Code for the care and treatment of mentally ill patients, or with persons, organizations, or agencies for the custody, evaluation, supervision, care, or treatment of mentally ill persons receiving services elsewhere than within the enclosure of a hospital operated under section 5119.14 of the Revised Code.

**Sec. 5119.11.** (A) The director of mental health and addiction services shall appoint a medical

director who is eligible or certified by the American board of psychiatry and neurology or the American osteopathic board of neurology and psychiatry, and has at least five years of clinical and two years of administrative experience. The medical director shall also have certification or substantial training and experience in the field of addiction medicine or addiction psychiatry. The medical director shall be responsible for decisions relating to medical diagnosis, treatment, prevention, rehabilitation, quality assurance, and the clinical aspects of addiction services and mental health services involving all of the following:

- (1) Licensure of hospitals, residential facilities, and outpatient facilities;
- (2) Research;
- (3) Community addiction and mental health plans;
- (4) Certification and delivery of addiction and mental health services.

(B) The medical director shall also exercise clinical supervision of the chief clinical officers of hospitals and institutions under the jurisdiction of the department and shall review and approve decisions relating to the employment of the chief clinical officers. The medical director or the medical director's designee shall advise the director on matters relating to licensure, research, the certification and delivery of addiction services and mental health services, and community addiction and mental health plans. The medical director shall participate in the development of guidelines for community addiction and mental health plans. The director of mental health and addiction services may establish other duties of the medical director.

**Sec. 5119.161.** The department of mental health and addiction services, in conjunction with the department of job and family services, shall develop a joint state plan to improve the accessibility and timeliness of alcohol and drug addiction services for individuals identified by a public children services agency as in need of those services. The plan shall address the fact that Ohio works first participants may be among the persons receiving services under section 340.15 of the Revised Code and shall require the department of job and family services to seek federal funds available under Title IV-A of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, for the provision of the services to Ohio works first participants who are receiving services under section 340.15 of the Revised Code.

The departments shall review and amend the plan as necessary.

**Sec. 5119.18.** An appointing authority may appoint a person who holds a certified or permanent position in the classified service within the department of mental health and addiction services to a position in the unclassified service within the department. A person appointed pursuant to this section to a position in the unclassified service shall retain the right to resume the position and status held by the person in the classified service immediately prior to the person's appointment to the position in the unclassified service, pursuant to division (D) of section 124.11 of the Revised Code.

A person who holds a position in the classified service and who is appointed to a position in the unclassified service on or after January 1, 2016, shall have the right to resume a position in the classified service under this section only within five years after the effective date of the person's appointment in the unclassified service.

**Sec. 5119.186.** (A) The director of mental health and addiction services or the managing officer of an institution of the department may enter into an agreement with boards of trustees or boards of directors of one or more institutions of higher education or hospitals licensed pursuant to

section 5119.33 of the Revised Code to establish, manage, and conduct collaborative training efforts for students enrolled in courses of studies for occupations or professions that involve the care and treatment for persons receiving addiction or mental health services.

(B) Such collaborative training efforts may include but are not limited to programs in psychiatry, psychology, nursing, social work, counseling professions, and others considered appropriate by the director of mental health and addiction services. Any such program shall be approved or accredited by its respective professional organization or state board having jurisdiction over the profession.

(1) The department shall require that the following be provided for in agreements between the department and institutions of higher education or hospitals licensed pursuant to section 5119.33 of the Revised Code:

(a) Establishment of inter-disciplinary committees to advise persons responsible for training programs. Each committee shall have representation drawn from the geographical community the institution of higher education or hospital serves and shall include representatives of agencies, boards, targeted populations as determined by the department, racial and ethnic minority groups, and publicly funded programs;

(b) Funding procedures;

(c) Specific outcomes and accomplishments that are expected or required of a program under such agreement;

(d) The types of services to be provided under such agreement.

(2) The department may require that the following be provided for in agreements between the department and institutions of higher education or hospitals licensed pursuant to section 5119.33 of the Revised Code:

(a) Special arrangements for individual residents or trainees to encourage their employment in publicly funded settings upon completion of their training;

(b) Procedures for the selection of residents or trainees to promote the admission, retention, and graduation of women, minorities, and disabled persons;

(c) Cross-cultural training and other subjects considered necessary to enhance training efforts and the care and treatment of patients and clients;

(d) Funding of faculty positions oriented toward meeting the needs of publicly funded programs.

Subject to appropriations by the general assembly, the director of mental health and addiction services has final approval of the funding of these collaborative training efforts.

**Sec. 5119.21.** (A) The department of mental health and addiction services shall:

(1) To the extent the department has available resources and in consultation with boards of alcohol, drug addiction, and mental health services, support the community-based continuum of care that the boards are required by section 340.032 of the Revised Code to establish. The department shall provide the support on a district or multi-district basis. The department shall assist in identifying resources, and may prioritize support, for one or more of the elements of the community-based continuum of care. For the purpose of division (A)(10) of section 340.032 of the Revised Code and to the extent the department determines is necessary, the department shall define additional elements to be included in the community-based continuum of care.



(2) Provide training, consultation, and technical assistance regarding addiction services, mental health services, recovery supports, and appropriate prevention, recovery, and mental health promotion activities, including those that are culturally competent, to employees of the department, community addiction services providers, community mental health services providers, and boards of alcohol, drug addiction, and mental health services;

(3) To the extent the department has available resources, promote and support a full range of addiction services, mental health services, and recovery supports that are available and accessible to all residents of this state, especially for severely emotionally disturbed children and adolescents, severely mentally disabled adults, pregnant women, parents, guardians or custodians of children at risk of abuse or neglect, and other special target populations, including racial and ethnic minorities, as determined by the department;

(4) Develop standards and measures for both of the following:

(a) Evaluating the effectiveness of addiction services, including those that use methadone treatment, of mental health services, and recovery supports;

(b) Increasing the accountability of community addiction services providers and community mental health services providers.

(5) Design and set criteria for the determination of priority populations;

(6) Promote, direct, conduct, and coordinate scientific research, taking ethnic and racial differences into consideration, concerning all of the following:

(a) The causes and prevention of mental illness and addiction;

(b) Methods of providing effective addiction services, mental health services, and recovery supports;

(c) Means of enhancing the mental health of and recovery from addiction of all residents of this state.

(7) Foster the establishment and availability of vocational rehabilitation services and the creation of employment opportunities for individuals with addiction and mental health needs, including members of racial and ethnic minorities;

(8) Establish a program to protect and promote the rights of persons receiving addiction services, mental health services, and recovery supports, including the issuance of guidelines on informed consent and other rights;

(9) Promote the involvement of persons who are receiving or have received addiction services, mental health services, and recovery supports including families and other persons having a close relationship to a person receiving those services and supports, in the planning, evaluation, delivery, and operation of addiction services, mental health services, and recovery supports;

(10) Notify and consult with the relevant constituencies that may be affected by rules, standards, and guidelines issued by the department of mental health and addiction services. These constituencies shall include consumers of addiction services, mental health services, and recovery supports and the families of such consumers. These constituencies may include public and private providers, employee organizations, and others when appropriate. Whenever the department proposes the adoption, amendment, or rescission of rules under Chapter 119. of the Revised Code, the notification and consultation required by this division shall occur prior to the commencement of proceedings under Chapter 119. The department shall adopt rules under Chapter 119. of the Revised

Code that establish procedures for the notification and consultation required by this division.

(11) Provide consultation to the department of rehabilitation and correction concerning the delivery of addiction services and mental health services in state correctional institutions;

(12) Promote and coordinate efforts in the provision of addiction services by other state agencies, as defined in section 1.60 of the Revised Code; courts; hospitals; clinics; physicians in private practice; public health authorities; boards of alcohol, drug addiction, and mental health services; community addiction services providers; law enforcement agencies; and related groups;

(13) Provide to each court of record, and biennially update, a list of the treatment and education programs within that court's jurisdiction that the court may require an offender, sentenced pursuant to section 4511.19 of the Revised Code, to attend;

(14) Make the warning sign described in sections 3313.752, 3345.41, and 3707.50 of the Revised Code available on the department's internet web site;

(15) Provide a program of gambling addiction services on behalf of the state lottery commission, pursuant to an agreement entered into with the director of the commission under division (K) of section 3770.02 of the Revised Code, and provide a program of gambling addiction services on behalf of the Ohio casino control commission, under an agreement entered into with the executive director of the commission under section 3772.062 of the Revised Code. Under Section 6(C)(3) of Article XV, Ohio Constitution, the department may enter into agreements with boards of alcohol, drug addiction, and mental health services, including boards with districts in which a casino facility is not located, and nonprofit organizations to provide addiction services, and with state institutions of higher education or private nonprofit institutions that possess a certificate of authorization issued under Chapter 1713. of the Revised Code to perform related research.

(B) The department may accept and administer grants from public or private sources for carrying out any of the duties enumerated in this section.

(C) The department may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement the requirements of this chapter.

**Sec. 5119.23.** (A) The department of mental health and addiction services shall establish a methodology for allocating to boards of alcohol, drug addiction, and mental health services the funds appropriated by the general assembly to the department for the purpose of the community-based continuum of care that each board establishes under section 340.032 of the Revised Code. The department shall establish the methodology after notifying and consulting with relevant constituencies as required by division (A)(10) of section 5119.21 of the Revised Code. The methodology may provide for the funds to be allocated to boards on a district or multi-district basis.

(B) Subject to section 5119.25 of the Revised Code, and to required submissions and approvals under sections 340.08 and 5119.22 of the Revised Code, the department shall allocate the funds to the boards in a manner consistent with the methodology, this section, other state and federal laws, rules, and regulations.

(C) In consultation with boards, community addiction services providers, community mental health services providers, and persons receiving addiction services, mental health services, and recovery supports, the department shall establish guidelines for the use of funds allocated under this section.

**Sec. 5119.25.** (A) The director of mental health and addiction services may withhold funds,

in whole or in part, that otherwise are to be allocated to a board of alcohol, drug addiction, and mental health services under section 5119.23 of the Revised Code if either of the following circumstances apply:

(1) The board fails to comply with Chapter 340. or 5119. of the Revised Code or rules of the department of mental health and addiction services;

(2) The board denies available service on the basis of race, color, religion, ancestry, military status, sex, age, national origin, disability as defined in section 4112.01 of the Revised Code, or developmental disability.

(B) The director shall withhold funds, in whole or in part, that otherwise are to be allocated to a board under section 5119.23 of the Revised Code if either of the following circumstances apply:

(1) The director, under division (G) of section 5119.22 of the Revised Code, disapproves all or part of the board's proposed community addiction and mental health plan, budget, or list of addiction services, mental health services, and recovery supports;

(2) The board's use of state and federal funds fails to comply with the board's approved budget, including approved amendments to the budget.

(C) The director shall issue a notice identifying the areas of noncompliance and the action necessary to achieve compliance. The director may offer technical assistance to the board to achieve compliance. The board shall have thirty days from receipt of the notice of noncompliance to present its position that it is in compliance or to submit to the director evidence of corrective action the board took to achieve compliance. Before withholding funds, the director or the director's designee shall hold a hearing within thirty days of receipt of the board's position or evidence to determine if there are continuing violations and that either assistance is rejected or the board is unable, or has failed, to achieve compliance. The director may appoint a representative from another board of alcohol, drug addiction, and mental health services to serve as a mentor for the board in developing and executing a plan of corrective action to achieve compliance. Any such representative shall be from a board that is in compliance with Chapter 340. of the Revised Code, this chapter, and the department's rules. Subsequent to the hearing process, if it is determined that compliance has not been achieved, the director may allocate all or part of the withheld funds to one or more community mental health services providers or community addiction services providers to provide the mental health service, addiction service, or recovery support for which the board is not in compliance until the time that there is compliance.

(D) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

**Sec. 5119.28.** (A) All records, and reports, other than court journal entries or court docket entries, identifying a person and pertaining to the person's mental health condition, assessment, provision of care, treatment, or recovery supports, or payment for assessment, care, treatment, or recovery supports that are maintained in connection with any services certified by the department of mental health and addiction services, any recovery supports paid for with funds administered by the department or a board of alcohol, drug addiction, and mental health services, or any hospitals or facilities licensed or operated by the department, shall be kept confidential and shall not be disclosed by any person except:

(1) If the person identified, or the person's legal guardian, if any, or if the person is a minor,

the person's parent or legal guardian, consents;

(2) When disclosure is provided for in this chapter or Chapter 340. or 5122. of the Revised Code or in accordance with other provisions of state or federal law authorizing such disclosure;

(3) That hospitals, boards of alcohol, drug addiction, and mental health services, licensed facilities, and community mental health services providers may release necessary information to insurers and other third-party payers, including government entities responsible for processing and authorizing payment, to obtain payment for goods and services furnished to the person;

(4) Pursuant to a court order signed by a judge;

(5) That a person shall be granted access to the person's own psychiatric and medical records, unless access specifically is restricted in a person's treatment plan for clear treatment reasons;

(6) That the department of mental health and addiction services may exchange psychiatric records and other pertinent information with community mental health services providers and boards of alcohol, drug addiction, and mental health services relating to the person's care or services. Records and information that may be exchanged pursuant to this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment, summary of treatment needs, and a discharge summary, if any.

(7) That the department of mental health and addiction services, hospitals and community providers operated by the department, hospitals licensed by the department under section 5119.33 of the Revised Code, and community mental health services providers may exchange psychiatric records and other pertinent information with payers and other providers of treatment and health services if the purpose of the exchange is to facilitate continuity of care for the person or for the emergency treatment of the person;

(8) That the department of mental health and addiction services and community mental health services providers may exchange psychiatric records and other pertinent information with boards of alcohol, drug addiction, and mental health services for purposes of any board function set forth in Chapter 340. of the Revised Code. Boards of alcohol, drug addiction, and mental health services shall not access any personal information from the department or providers except as required or permitted by this section, or Chapter 340. or 5122. of the Revised Code for purposes related to payment, care coordination, health care operations, program and service evaluation, reporting activities, research, system administration, oversight, or other authorized purposes.

(9) That a person's family member who is involved in the provision, planning, and monitoring of services to the person may receive medication information, a summary of the person's diagnosis and prognosis, and a list of the services and personnel available to assist the person and the person's family, if the person's treatment provider determines that the disclosure would be in the best interests of the person. No such disclosure shall be made unless the person is notified first and receives the information and does not object to the disclosure.

(10) That community mental health services providers may exchange psychiatric records and certain other information with the board of alcohol, drug addiction, and mental health services and other providers in order to provide services to a person involuntarily committed to a board. Release of records under this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment, summary of treatment needs, and discharge summary, if any.

(11) That information may be disclosed to the executor or the administrator of an estate of a deceased person when the information is necessary to administer the estate;

(12) That information may be disclosed to staff members of the appropriate board or to staff members designated by the director of mental health and addiction services for the purpose of evaluating the quality, effectiveness, and efficiency of mental health services and recovery supports and determining if the services and supports meet minimum standards. Information obtained during such evaluations shall not be retained with the name of any person.

(13) That records pertaining to the person's diagnosis, course of treatment, treatment needs, and prognosis shall be disclosed and released to the appropriate prosecuting attorney if the person was committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, or to the attorney designated by the board for proceedings pursuant to involuntary commitment under Chapter 5122. of the Revised Code;

(14) That the department of mental health and addiction services may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with the department of rehabilitation and correction and with the department of youth services to ensure continuity of care for inmates and offenders who are receiving mental health services in an institution of the department of rehabilitation and correction or the department of youth services and may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with boards of alcohol, drug addiction, and mental health services and community mental health services providers to ensure continuity of care for inmates or offenders who are receiving mental health services in an institution and are scheduled for release within six months. The release of records under this division is limited to records regarding an inmate's or offender's medication history, physical health status and history, summary of course of treatment, summary of treatment needs, and a discharge summary, if any.

(15) That a community mental health services provider that ceases to operate may transfer to either a community mental health services provider that assumes its caseload or to the board of alcohol, drug addiction, and mental health services of the service district in which the person resided at the time mental health services or recovery supports were most recently provided any records concerning the services or supports that have not been transferred elsewhere at the person's request;

(16) That records and reports relating to a person who has been deceased for fifty years or more are no longer considered confidential.

(B) Before records are disclosed pursuant to divisions (A)(3), (6), and (10) of this section, the custodian of the records shall attempt to obtain the person's consent for the disclosure.

(C) No person shall reveal the content of a medical record of a person that is confidential pursuant to this section, except as authorized by law.

**Sec. 5119.31.** The department of administrative services shall purchase all supplies needed for the proper support and maintenance of the institutions under the control of the department of mental health and addiction services in accordance with the competitive selection procedures of Chapter 125. of the Revised Code and such rules as the department of administrative services adopts. All bids shall be publicly opened on the day and hour and at the place specified in the advertisement.

Preference shall be given to bidders in localities wherein the institution is located, if the price is fair and reasonable and not greater than the usual price; but bids not meeting the specifications

shall be rejected.

The department of administrative services may require such security as it considers proper to accompany the bids and shall fix the security to be given by the contractor.

The department of administrative services may reject any or all bids and secure new bids, if for any reason it is deemed for the best interest of the state to do so, and it may authorize the managing officer of any institution to purchase perishable goods and supplies for use in cases of emergency, in which cases such managing officer shall certify such fact in writing and the department of administrative services shall record the reasons for such purchase.

**Sec. 5119.33.** (A)(1) The department of mental health and addiction services shall inspect and license all hospitals that receive mentally ill persons, except those hospitals managed by the department. No hospital may receive for care or treatment, either at public or private expense, any person who is or appears to be mentally ill, whether or not so adjudicated, unless the hospital has received a license from the department authorizing it to receive for care or treatment persons who are mentally ill or the hospital is managed by the department.

(2) No such license shall be granted to a hospital for the treatment of mentally ill persons unless the department is satisfied, after investigation, that the hospital is managed and operated by qualified persons and has on its staff one or more qualified physicians responsible for the medical care of the patients confined there. At least one such physician shall be a psychiatrist.

(B) The department shall adopt rules under Chapter 119. of the Revised Code prescribing minimum standards for the operation of hospitals for the care and treatment of mentally ill persons and establishing standards and procedures for the issuance, renewal, or revocation of full, probationary, and interim licenses. No license shall be granted to any hospital established or used for the care of mentally ill persons unless such hospital is operating in accordance with this section and rules adopted pursuant to this section. A full license shall expire one year after the date of issuance, a probationary license shall expire at the time prescribed by rule adopted pursuant to Chapter 119. of the Revised Code by the director of mental health and addiction services, and an interim license shall expire ninety days after the date of issuance. A full, probationary, or interim license may be renewed, except that an interim license may be renewed only twice. The department may fix reasonable fees for licenses and for license renewals. Such hospitals are subject to inspection and on-site review by the department.

(C) Except as otherwise provided in Chapter 5122. of the Revised Code, neither the director of mental health and addiction services; an employee of the department; a board of alcohol, drug addiction, and mental health services or employee of a community mental health services provider; nor any other public official shall hospitalize any mentally ill person for care or treatment in any hospital that is not licensed in accordance with this section.

(D) The department may issue an order suspending the admission of patients who are mentally ill to a hospital for care or treatment if it finds either of the following:

(1) The hospital is not in compliance with rules adopted by the director pursuant to this section.

(2) The hospital has been cited for more than one violation of statutes or rules during any previous period of time during which the hospital is licensed pursuant to this section.

(E) Any license issued by the department under this section may be revoked or not renewed

by the department for any of the following reasons:

- (1) The hospital is no longer a suitable place for the care or treatment of mentally ill persons.
- (2) The hospital refuses to be subject to inspection or on-site review by the department.
- (3) The hospital has failed to furnish humane, kind, and adequate treatment and care.
- (4) The hospital fails to comply with the licensure rules of the department.

(F) The department may inspect, conduct an on-site review, and review the records of any hospital that the department has reason to believe is operating without a license.

**Sec. 5119.34.** (A) As used in this section and sections 5119.341 and 5119.342 of the Revised Code:

(1) "Accommodations" means housing, daily meal preparation, laundry, housekeeping, arranging for transportation, social and recreational activities, maintenance, security, and other services that do not constitute personal care services or skilled nursing care.

(2) "ADAMHS board" means a board of alcohol, drug addiction, and mental health services.

(3) "Adult" means a person who is eighteen years of age or older, other than a person described in division (A)(4) of this section who is between eighteen and twenty-one years of age.

(4) "Child" means a person who is under eighteen years of age or a person with a mental disability who is under twenty-one years of age.

(5) "Community mental health services provider" means a community mental health services provider as defined in section 5119.01 of the Revised Code.

(6) "Community mental health services" means any mental health services certified by the department pursuant to section 5119.36 of the Revised Code.

(7) "Operator" means the person or persons, firm, partnership, agency, governing body, association, corporation, or other entity that is responsible for the administration and management of a residential facility and that is the applicant for a residential facility license.

(8) "Personal care services" means services including, but not limited to, the following:

(a) Assisting residents with activities of daily living;

(b) Assisting residents with self-administration of medication in accordance with rules adopted under this section;

(c) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under this section.

"Personal care services" does not include "skilled nursing care" as defined in section 3721.01 of the Revised Code. A facility need not provide more than one of the services listed in division (A)(8) of this section to be considered to be providing personal care services.

(9) "Room and board" means the provision of sleeping and living space, meals or meal preparation, laundry services, housekeeping services, or any combination thereof.

(10) "Residential state supplement program" means the program established under section 5119.41 of the Revised Code.

(11) "Supervision" means any of the following:

(a) Observing a resident to ensure the resident's health, safety, and welfare while the resident engages in activities of daily living or other activities;

(b) Reminding a resident to perform or complete an activity, such as reminding a resident to engage in personal hygiene or other self-care activities;

(c) Assisting a resident in making or keeping an appointment.

(12) "Unrelated" means that a resident is not related to the owner or operator of a residential facility or to the owner's or operator's spouse as a parent, grandparent, child, stepchild, grandchild, brother, sister, niece, nephew, aunt, or uncle, or as the child of an aunt or uncle.

(B)(1) A "residential facility" is a publicly or privately operated home or facility that falls into one of the following categories:

(a) Class one facilities provide accommodations, supervision, personal care services, and mental health services for one or more unrelated adults with mental illness or one or more unrelated children or adolescents with severe emotional disturbances;

(b) Class two facilities provide accommodations, supervision, and personal care services to any of the following:

(i) One or two unrelated persons with mental illness;

(ii) One or two unrelated adults who are receiving payments under the residential state supplement program;

(iii) Three to sixteen unrelated adults.

(c) Class three facilities provide room and board for five or more unrelated adults with mental illness.

(2) "Residential facility" does not include any of the following:

(a) A hospital subject to licensure under section 5119.33 of the Revised Code or an institution maintained, operated, managed, and governed by the department of mental health and addiction services for the hospitalization of mentally ill persons pursuant to section 5119.14 of the Revised Code;

(b) A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of developmental disabilities;

(c) An institution or association subject to certification under section 5103.03 of the Revised Code;

(d) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;

(e) A nursing home, residential care facility, or home for the aging as defined in section 3721.02 of the Revised Code;

(f) A facility licensed to provide methadone treatment under section 5119.391 of the Revised Code;

(g) Any facility that receives funding for operating costs from the development services agency under any program established to provide emergency shelter housing or transitional housing for the homeless;

(h) A terminal care facility for the homeless that has entered into an agreement with a hospice care program under section 3712.07 of the Revised Code;

(i) A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for the placement and care of veterans;

(j) The residence of a relative or guardian of a person with mental illness.

(C) Nothing in division (B) of this section shall be construed to permit personal care services



to be imposed on a resident who is capable of performing the activity in question without assistance.

(D) Except in the case of a residential facility described in division (B)(1)(a) of this section, members of the staff of a residential facility shall not administer medication to the facility's residents, but may do any of the following:

(1) Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container;

(2) Assist a resident in the self-administration of medication by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to this section, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident.

(3) Assist a physically impaired but mentally alert resident, such as a resident with arthritis, cerebral palsy, or Parkinson's disease, in removing oral or topical medication from containers and in consuming or applying the medication, upon request by or with the consent of the resident. If a resident is physically unable to place a dose of medicine to the resident's mouth without spilling it, a staff member may place the dose in a container and place the container to the mouth of the resident.

(E)(1) Except as provided in division (E)(2) of this section, a person operating or seeking to operate a residential facility shall apply for licensure of the facility to the department of mental health and addiction services. The application shall be submitted by the operator. When applying for the license, the applicant shall pay to the department the application fee specified in rules adopted under division (L) of this section. The fee is nonrefundable.

The department shall send a copy of an application to the ADAMHS board serving the county in which the person operates or seeks to operate the facility. The ADAMHS board shall review the application and provide to the department any information about the applicant or the facility that the board would like the department to consider in reviewing the application.

(2) A person may not apply for a license to operate a residential facility if the person is or has been the owner, operator, or manager of a residential facility for which a license to operate was revoked or for which renewal of a license was refused for any reason other than nonpayment of the license renewal fee, unless both of the following conditions are met:

(a) A period of not less than two years has elapsed since the date the director of mental health and addiction services issued the order revoking or refusing to renew the facility's license.

(b) The director's revocation or refusal to renew the license was not based on an act or omission at the facility that violated a resident's right to be free from abuse, neglect, or exploitation.

(F)(1) The department of mental health and addiction services shall inspect and license the operation of residential facilities. The department shall consider the past record of the facility and the applicant or licensee in arriving at its licensure decision.

The department may issue full, probationary, and interim licenses. A full license shall expire up to three years after the date of issuance, a probationary license shall expire in a shorter period of time as specified in rules adopted by the director of mental health and addiction services under division (L) of this section, and an interim license shall expire ninety days after the date of issuance. A license may be renewed in accordance with rules adopted by the director under division (L) of this section. The renewal application shall be submitted by the operator. When applying for renewal of a license, the applicant shall pay to the department the renewal fee specified in rules adopted under

division (L) of this section. The fee is nonrefundable.

(2) The department may issue an order suspending the admission of residents to the facility or refuse to issue or renew and may revoke a license if it finds any of the following:

(a) The facility is not in compliance with rules adopted by the director pursuant to division (L) of this section;

(b) Any facility operated by the applicant or licensee has been cited for a pattern of serious noncompliance or repeated violations of statutes or rules during the period of current or previous licenses;

(c) The applicant or licensee submits false or misleading information as part of a license application, renewal, or investigation.

Proceedings initiated to deny applications for full or probationary licenses or to revoke such licenses are governed by Chapter 119. of the Revised Code. An order issued pursuant to this division remains in effect during the pendency of those proceedings.

(G) The department may issue an interim license to operate a residential facility if both of the following conditions are met:

(1) The department determines that the closing of or the need to remove residents from another residential facility has created an emergency situation requiring immediate removal of residents and an insufficient number of licensed beds are available.

(2) The residential facility applying for an interim license meets standards established for interim licenses in rules adopted by the director under division (L) of this section.

An interim license shall be valid for ninety days and may be renewed by the director no more than twice. Proceedings initiated to deny applications for or to revoke interim licenses under this division are not subject to Chapter 119. of the Revised Code.

(H)(1) The department of mental health and addiction services may conduct an inspection of a residential facility as follows:

(a) Prior to issuance of a license for the facility;

(b) Prior to renewal of the license;

(c) To determine whether the facility has completed a plan of correction required pursuant to division (H)(2) of this section and corrected deficiencies to the satisfaction of the department and in compliance with this section and rules adopted pursuant to it;

(d) Upon complaint by any individual or agency;

(e) At any time the director considers an inspection to be necessary in order to determine whether the facility is in compliance with this section and rules adopted pursuant to this section.

(2) In conducting inspections the department may conduct an on-site examination and evaluation of the residential facility and its personnel, activities, and services. The department shall have access to examine and copy all records, accounts, and any other documents relating to the operation of the residential facility, including records pertaining to residents, and shall have access to the facility in order to conduct interviews with the operator, staff, and residents. Following each inspection and review, the department shall complete a report listing any deficiencies, and including, when appropriate, a time table within which the operator shall correct the deficiencies. The department may require the operator to submit a plan of correction describing how the deficiencies will be corrected.

(I) No person shall do any of the following:

- (1) Operate a residential facility unless the facility holds a valid license;
- (2) Violate any of the conditions of licensure after having been granted a license;
- (3) Interfere with a state or local official's inspection or investigation of a residential facility;
- (4) Violate any of the provisions of this section or any rules adopted pursuant to this section.

(J) The following may enter a residential facility at any time:

- (1) Employees designated by the director of mental health and addiction services;
- (2) Employees of an ADAMHS board under either of the following circumstances:
  - (a) When a resident of the facility is receiving services from a community mental health services provider under contract with that ADAMHS board or another ADAMHS board;
  - (b) When authorized by section 340.05 of the Revised Code.
- (3) Employees of a community mental health services provider under either of the following circumstances:
  - (a) When the provider has a person receiving services residing in the facility;
  - (b) When the provider is acting as an agent of an ADAMHS board other than the board with which it is under contract.
- (4) Representatives of the state long-term care ombudsman program when the facility provides accommodations, supervision, and personal care services for three to sixteen unrelated adults or to one or two unrelated adults who are receiving payments under the residential state supplement program.

The persons specified in division (J) of this section shall be afforded access to examine and copy all records, accounts, and any other documents relating to the operation of the residential facility, including records pertaining to residents.

(K) Employees of the department of mental health and addiction services may enter, for the purpose of investigation, any institution, residence, facility, or other structure which has been reported to the department as, or that the department has reasonable cause to believe is, operating as a residential facility without a valid license.

(L) The director shall adopt and may amend and rescind rules pursuant to Chapter 119. of the Revised Code governing the licensing and operation of residential facilities. The rules shall establish all of the following:

- (1) Minimum standards for the health, safety, adequacy, and cultural competency of treatment of and services for persons in residential facilities;
- (2) Procedures for the issuance, renewal, or revocation of the licenses of residential facilities;
- (3) Procedures for conducting background investigations for prospective or current operators, employees, volunteers, and other non-resident occupants who may have direct access to facility residents;
- (4) The fee to be paid when applying for a new residential facility license or renewing the license;
- (5) Procedures for the operator of a residential facility to follow when notifying the ADAMHS board serving the county in which the facility is located when the facility is serving residents with mental illness or severe mental disability, including the circumstances under which the operator is required to make such a notification;

(6) Procedures for the issuance and termination of orders of suspension of admission of residents to a residential facility;

(7) Measures to be taken by residential facilities relative to residents' medication;

(8) Requirements relating to preparation of special diets;

(9) The maximum number of residents who may be served in a residential facility;

(10) The rights of residents of residential facilities and procedures to protect such rights;

(11) Standards and procedures under which the director may waive the requirements of any of the rules adopted.

(M)(1) The department may withhold the source of any complaint reported as a violation of this section when the department determines that disclosure could be detrimental to the department's purposes or could jeopardize the investigation. The department may disclose the source of any complaint if the complainant agrees in writing to such disclosure and shall disclose the source upon order by a court of competent jurisdiction.

(2) Any person who makes a complaint under division (M)(1) of this section, or any person who participates in an administrative or judicial proceeding resulting from such a complaint, is immune from civil liability and is not subject to criminal prosecution, other than for perjury, unless the person has acted in bad faith or with malicious purpose.

(N)(1) The director of mental health and addiction services may petition the court of common pleas of the county in which a residential facility is located for an order enjoining any person from operating a residential facility without a license or from operating a licensed facility when, in the director's judgment, there is a present danger to the health or safety of any of the occupants of the facility. The court shall have jurisdiction to grant such injunctive relief upon a showing that the respondent named in the petition is operating a facility without a license or there is a present danger to the health or safety of any residents of the facility.

(2) When the court grants injunctive relief in the case of a facility operating without a license, the court shall issue, at a minimum, an order enjoining the facility from admitting new residents to the facility and an order requiring the facility to assist with the safe and orderly relocation of the facility's residents.

(3) If injunctive relief is granted against a facility for operating without a license and the facility continues to operate without a license, the director shall refer the case to the attorney general for further action.

(O) The director may fine a person for violating division (I) of this section. The fine shall be five hundred dollars for a first offense; for each subsequent offense, the fine shall be one thousand dollars. The director's actions in imposing a fine shall be taken in accordance with Chapter 119. of the Revised Code.

**Sec. 5119.341.** (A) Any person may operate a residential facility providing accommodations and personal care services for one to five unrelated persons and licensed as a residential facility that meets the criteria specified in division (B)(1)(b) of section 5119.34 of the Revised Code as a permitted use in any residential district or zone, including any single-family residential district or zone of any political subdivision. Such facilities may be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone.

(B) Any person may operate a residential facility providing accommodations and personal care services for six to sixteen persons and licensed as a residential facility that meets the criteria specified in division (B)(1)(b) of section 5119.34 of the Revised Code as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned-unit developments as defined in section 519.021 of the Revised Code may exclude such facilities from such districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate such facilities in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(1) Require the architectural design and site layout of the home and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(2) Require compliance with yard, parking, and sign regulation.

(C) Divisions (A) and (B) of this section do not affect any right of a political subdivision to permit a person to operate a residential facility licensed under section 5119.34 of the Revised Code in a single-family residential district or zone under conditions established by the political subdivision.

(D)(1) Notwithstanding divisions (A) and (B) of this section and except as provided in division (D)(2) of this section, a political subdivision that has enacted a zoning ordinance or resolution may limit the excessive concentration of licensed residential facilities that meet the criteria specified in division (B)(1)(b) of section 5119.34 of the Revised Code.

(2) Division (D)(1) of this section does not authorize a political subdivision to prevent or limit the continued existence and operation of residential facilities existing and operating on September 10, 2012, and that meet the criteria specified in division (B)(1)(b) of section 5119.34 of the Revised Code. A political subdivision may consider the existence of such facilities for the purpose of limiting the excessive concentration of such facilities that meet the criteria specified in division (B)(1)(b) of section 5119.34 of the Revised Code that are not existing and operating on September 10, 2012.

**Sec. 5119.36.** (A) A community mental health services provider applicant or community addiction services provider applicant that seeks certification of its certifiable services and supports shall submit an application to the director of mental health and addiction services. On receipt of the application, the director may conduct an on-site review and shall evaluate the applicant to determine whether its certifiable services and supports satisfy the standards established by rules adopted under this section. The director shall make the evaluation, and, if the director conducts an on-site review of the applicant, may make the review, in cooperation with a board of alcohol, drug addiction, and mental health services that seeks to contract with the applicant under section 340.036 of the Revised Code.

(B) Subject to section 5119.361 of the Revised Code, the director shall determine whether the certifiable services and supports of a community mental health services provider applicant or community addiction services provider applicant satisfy the standards for certification. If the director determines that an applicant's certifiable services and supports satisfy the standards for certification and the applicant has paid the fee required by this section, the director shall certify the certifiable

services and supports. No community mental health services provider or community addiction services provider shall be eligible to receive state or federal funds, or funds administered by a board of alcohol, drug addiction, and mental health services for certifiable services and supports unless its certifiable services and supports have been certified by the director.

(C) If the director determines that a community mental health services provider applicant's or a community addiction services provider applicant's certifiable services and supports do not satisfy the standards for certification, the director shall identify the areas of noncompliance, specify what action is necessary to satisfy the standards, and may offer technical assistance to the applicant and to a board of alcohol, drug addiction, and mental health services so that the board may assist the applicant in satisfying the standards. The director shall give the applicant a reasonable time within which to demonstrate that its certifiable services and supports satisfy the standards or to bring them into compliance with the standards. If the director concludes that the certifiable services and supports continue to fail to satisfy the standards, the director may request that the board reallocate any funds for the certifiable services and supports the applicant was to provide to another community mental health services provider or community addiction services provider whose certifiable services and supports satisfy the standards. If the board does not reallocate such funds in a reasonable period of time, the director may withhold state and federal funds for the certifiable services and supports and allocate those funds directly to a community mental health services provider or community addiction services provider whose certifiable services and supports satisfy the standards.

(D) Each community mental health services provider applicant or community addiction services provider applicant seeking certification of its certifiable services and supports under this section shall pay a fee for the certification required by this section, unless the applicant is exempt under rules adopted under this section. Fees shall be paid into the state treasury to the credit of the sale of goods and services fund created pursuant to section 5119.45 of the Revised Code.

(E) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall do all of the following:

(1) Subject to section 340.034 of the Revised Code, specify the types of recovery supports that are required to be certified under this section;

(2) Establish certification standards for certifiable services and supports that are consistent with nationally recognized applicable standards and facilitate participation in federal assistance programs. The rules shall include as certification standards only requirements that improve the quality of certifiable services and supports or the health and safety of persons receiving certifiable services and supports. The standards shall address at a minimum all of the following:

(a) Reporting major unusual incidents to the director;

(b) Procedures for applicants for and persons receiving certifiable services and supports to file grievances and complaints;

(c) Seclusion;

(d) Restraint;

(e) Requirements regarding the physical facilities in which certifiable services and supports are provided;

(f) Requirements with regard to health, safety, adequacy, and cultural specificity and sensitivity;

- (g) Standards for evaluating certifiable services and supports;
- (h) Standards and procedures for granting full, probationary, and interim certification of the certifiable services and supports of a community mental health services provider applicant or community addiction services provider applicant;
- (i) Standards and procedures for revoking the certification of a community mental health services provider's or community addiction services provider's certifiable services and supports that do not continue to meet the minimum standards established pursuant to this section;
- (j) The limitations to be placed on a provider whose certifiable services and supports are granted probationary or interim certification;
- (k) Development of written policies addressing the rights of persons receiving certifiable services and supports, including all of the following:
  - (i) The right to a copy of the written policies addressing the rights of persons receiving certifiable services and supports;
  - (ii) The right at all times to be treated with consideration and respect for the person's privacy and dignity;
  - (iii) The right to have access to the person's own psychiatric, medical, or other treatment records unless access is specifically restricted in the person's treatment plan for clear treatment reasons;
  - (iv) The right to have a client rights officer provided by the provider or board of alcohol, drug addiction, and mental health services advise the person of the person's rights, including the person's rights under Chapter 5122. of the Revised Code if the person is committed to the provider or board.
- (3) Establish the process for certification of certifiable services and supports;
- (4) Set the amount of certification review fees;
- (5) Specify the type of notice and hearing to be provided prior to a decision on whether to reallocate funds.
- (F) The director may issue an order suspending admissions to a community addiction services provider that provides overnight accommodations if the director finds either of the following:
  - (1) The provider's certifiable services and supports are not in compliance with rules adopted under this section;
  - (2) The provider has been cited for more than one violation of statutes or rules during any previous certification period of the provider.
- (G) The department of mental health and addiction services shall maintain a current list of community addiction services providers and shall provide a copy of the list to a judge of a court of common pleas who requests a copy for the use of the judge under division (H) of section 2925.03 of the Revised Code. The list shall identify each provider by its name, its address, and the county in which it is located.
- (H) No person shall represent in any manner that a community mental health services provider's or community addiction services provider's certifiable services and supports are certified by the director if the certifiable services and supports are not so certified at the time the representation is made.

**Sec. 5119.361.** (A) In lieu of a determination by the director of mental health and addiction services of whether the mental health services of a community mental health services provider or the

alcohol and drug addiction services of a community addiction services provider satisfy the standards for certification under section 5119.36 of the Revised Code, the director shall accept appropriate accreditation of an applicant's mental health services, alcohol and drug addiction services, integrated mental health services and alcohol and drug addiction services, integrated mental health services and physical health services, or integrated alcohol and drug addiction services and physical health services being provided in this state from any of the following national accrediting organizations as evidence that the applicant satisfies the standards for certification:

- (1) The joint commission;
- (2) The commission on accreditation of rehabilitation facilities;
- (3) The council on accreditation;
- (4) Other behavioral health accreditation as determined by the director.

(B) If the director determines that an applicant's accreditation is current, is appropriate for the services for which the applicant is seeking certification, and the applicant meets any other requirements established under this section or in rules adopted under this section, the director shall certify under section 5119.36 of the Revised Code the applicant's services that are accredited. Except as provided in division (C)(2) of this section, the director shall issue the certification without further evaluation of the services.

(C) For purposes of this section, all of the following apply:

(1) The director may review the accrediting organizations listed in division (A) of this section to evaluate whether the accreditation standards and processes used by the organizations are consistent with service delivery models the director considers appropriate for mental health services, alcohol and drug addiction services, or physical health services. The director may communicate to an accrediting organization any identified concerns, trends, needs, and recommendations.

(2) The director may conduct an on-site review or otherwise evaluate a community mental health services provider or a community addiction services provider at any time based on cause, including complaints made by or on behalf of persons receiving mental health services or alcohol and drug addiction services and confirmed or alleged deficiencies brought to the attention of the director. This authority does not affect the director's duty to conduct the annual inspections required by section 5119.367 of the Revised Code.

(3) The director shall require a community mental health services provider and a community addiction services provider to notify the director not later than ten days after any change in the provider's accreditation status. The provider may notify the director by providing a copy of the relevant document the provider received from the accrediting organization.

(4) The director shall require a community mental health services provider and a community addiction services provider to submit to the director reports of major unusual incidents.

(5) The director may require a community mental health services provider or a community addiction services provider to submit to the director cost reports pertaining to the provider.

(D) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. In adopting the rules, the director shall do all of the following:

- (1) Specify the documentation that must be submitted as evidence of holding appropriate accreditation;
- (2) Establish a process by which the director may review the accreditation standards and



processes used by the national accrediting organizations listed in division (A) of this section;

(3) Specify the circumstances under which reports of major unusual incidents and provider cost reports must be submitted to the director;

(4) Specify the circumstances under which the director may conduct an on-site review or otherwise evaluate a community mental health services provider and a community addiction services provider for cause;

(5) Establish a process by which the director, based on deficiencies identified as a result of conducting an on-site review or evaluating a community mental health services provider or a community addiction services provider under division (C)(2) of this section, may take any of a range of corrective actions, with the most stringent being revocation of the certification of the provider's mental health services or alcohol and drug addiction services.

**Sec. 5119.365.** The director of mental health and addiction services shall adopt rules in accordance with Chapter 119. of the Revised Code to do both of the following:

(A) Streamline the intake procedures used by a community addiction services provider accepting and beginning to serve a new individual, including procedures regarding intake forms and questionnaires;

(B) Enable a community addiction services provider to retain an individual as an active patient even though the patient last received services from the provider more than thirty days before resumption of services so that the individual and provider do not have to repeat the intake procedures.

**Sec. 5119.41.** (A) The department of mental health and addiction services shall implement the residential state supplement program under which the state supplements the amounts received by aged, blind, or disabled adults as supplemental security income payments under Title XVI of the "Social Security Act," 42 U.S.C. 1381 et seq., or as social security benefits or social security disability insurance benefits under Title II of the "Social Security Act," 42 U.S.C. 401 et seq. Residential state supplement payments shall be used for the provision of accommodations, supervision, and personal care services to recipients of supplemental security income payments, social security benefits, and social security disability insurance benefits who the department determines are at risk of needing institutional care.

In implementing the program, the department may designate one or more entities to be responsible for providing administrative services regarding the program. The department may designate an entity either by entering into a contract with the entity to ~~provided~~ provide the services or by otherwise delegating to the entity the responsibility to provide the services.

(B) To be eligible for residential state supplement payments, an individual must satisfy all eligibility requirements established by rules adopted under this section.

(C) The director of mental health and addiction services and the medicaid director shall adopt rules as necessary to implement the residential state supplement program, including the requirements that an individual must satisfy to be eligible for payments under the program. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

The rules adopted by the director of mental health and addiction services may establish the method to be used to determine the payment an eligible individual will receive under the program. The amount the general assembly appropriates for the program may be a factor included in the

method that director establishes.

To the extent permitted by Title XVI of the "Social Security Act" and any other provision of federal law, the rules adopted by the medicaid director may establish standards for adjusting the eligibility requirements concerning the level of impairment an individual must have so that the amount appropriated for the program by the general assembly is adequate for the number of eligible individuals. The rules shall not limit the eligibility of individuals who are disabled solely on a basis classifying disabilities as physical or mental.

(D) The county department of job and family services of the county in which an applicant for the residential state supplement program resides or the department of medicaid shall determine whether the applicant meets income and resource requirements for the program.

The county department of job and family services or the department of medicaid shall notify each individual who is denied approval for payments under the program of the individual's right to a hearing. On request, the hearing shall be provided in accordance with section 5101.35 of the Revised Code.

(E) An individual in a licensed or certified living arrangement receiving state supplementation on November 15, 1990, under former section 5101.531 of the Revised Code shall not become ineligible for payments under this program solely by reason of the individual's living arrangement as long as the individual remains in the living arrangement in which the individual resided on November 15, 1990.

**Sec. 5119.44.** As used in this section, "free clinic" has the same meaning as in section 2305.2341 of the Revised Code.

(A) The department of mental health and addiction services may provide certain goods and services for the department of mental health and addiction services, the department of developmental disabilities, the department of rehabilitation and correction, the department of youth services, and other state, county, or municipal agencies requesting such goods and services when the department of mental health and addiction services determines that it is in the public interest, and considers it advisable, to provide these goods and services. The department of mental health and addiction services also may provide goods and services to agencies operated by the United States government and to public or private nonprofit agencies, other than free clinics, that are funded in whole or in part by the state if the public or private nonprofit agencies are designated for participation in this program by the director of mental health and addiction services for community addiction services providers and community mental health services providers, the director of developmental disabilities for community developmental disabilities agencies, the director of rehabilitation and correction for community rehabilitation and correction agencies, or the director of youth services for community youth services agencies.

Designated community agencies or services providers shall receive goods and services through the department of mental health and addiction services only in those cases where the designating state agency certifies that providing such goods and services to the agency or services provider will conserve public resources to the benefit of the public and where the provision of such goods and services is considered feasible by the department of mental health and addiction services.

(B) The department of mental health and addiction services may permit free clinics to purchase certain goods and services to the extent the purchases fall within the exemption to the

Robinson-Patman Act, 15 U.S.C. 13 et seq., applicable to nonprofit institutions, in 15 U.S.C. 13c, as amended.

(C) The goods and services that may be provided by the department of mental health and addiction services under divisions (A) and (B) of this section may include:

(1) Procurement, storage, processing, and distribution of food and professional consultation on food operations;

(2) Procurement, storage, and distribution of medical and laboratory supplies, dental supplies, medical records, forms, optical supplies, and sundries, subject to section 5120.135 of the Revised Code;

(3) Procurement, storage, repackaging, distribution, and dispensing of drugs, the provision of professional pharmacy consultation, and drug information services;

(4) Other goods and services.

(D) The department of mental health and addiction services may provide the goods and services designated in division (C) of this section to its institutions and to state-operated community-based mental health or addiction services providers.

(E) After consultation with and advice from the director of developmental disabilities, the director of rehabilitation and correction, and the director of youth services, the department of mental health and addiction services may provide the goods and services designated in division (C) of this section to the department of developmental disabilities, the department of rehabilitation and correction, and the department of youth services.

(F) The cost of administration of this section shall be determined by the department of mental health and addiction services and paid by the agencies, services providers, or free clinics receiving the goods and services to the department for deposit in the state treasury to the credit of the Ohio pharmacy services fund, which is hereby created. The fund shall be used to pay the cost of administration of this section to the department.

(G) Whenever a state agency fails to make a payment for goods and services provided under this section within thirty-one days after the date the payment was due, the office of budget and management may transfer moneys from the state agency to the department of mental health and addiction services. The amount transferred shall not exceed the amount of overdue payments. Prior to making a transfer under this division, the office of budget and management shall apply any credits the state agency has accumulated in payments for goods and services provided under this section.

(H) Purchases of goods and services under this section are not subject to section 307.86 of the Revised Code.

**Sec. 5119.61.** (A) The department of mental health and addiction services shall collect and compile statistics and other information on the care and treatment of mentally disabled persons, and the care, treatment, and rehabilitation of alcoholics, drug dependent persons, persons in danger of drug dependence, and persons with or in danger of developing a gambling addiction in this state. The information shall include, without limitation, information on the number of such persons, the type of drug involved, if any, the type of care, treatment, or rehabilitation prescribed or undertaken, and the success or failure of the care, treatment, or rehabilitation. The department shall collect information about addiction services, mental health services, and recovery supports delivered and persons served as required for reporting and evaluation relating to state and federal funds expended for such

purposes.

(B) No community addiction services provider or community mental health services provider shall fail to supply statistics and other information within its knowledge and with respect to its addiction services, mental health services, and recovery supports upon request of the department.

(C) Communications by a person seeking aid in good faith for alcoholism or drug dependence are confidential, and this section does not require the collection or permit the disclosure of information which reveals or comprises the identity of any person seeking aid.

(D) Based on the information collected and compiled under division (A) of this section, the department shall develop a project to assess the outcomes of persons served by community addiction services providers and community mental health services providers that receive funds distributed by the department.

**Sec. 5119.94.** (A) Upon receipt of a petition filed under section 5119.93 of the Revised Code and the payment of the appropriate filing fee, if any, the probate court shall examine the petitioner under oath as to the contents of the petition.

(B) If, after reviewing the allegations contained in the petition and examining the petitioner under oath, it appears to the probate court that there is probable cause to believe the respondent may reasonably benefit from treatment, the court shall do all of the following:

(1) Schedule a hearing to be held within seven days to determine if there is clear and convincing evidence that the respondent may reasonably benefit from treatment for alcohol and other drug abuse;

(2) Notify the respondent, the legal guardian, if any and if known, and the spouse, parents, or nearest relative or friend of the respondent concerning the allegations and contents of the petition and of the date and purpose of the hearing;

(3) Notify the respondent that the respondent may retain counsel and, if the person is unable to obtain an attorney, that the respondent may be represented by court-appointed counsel at public expense if the person is indigent. Upon the appointment of an attorney to represent an indigent respondent, the court shall notify the respondent of the name, address, and telephone number of the attorney appointed to represent the respondent.

(4) Notify the respondent that the court shall cause the respondent to be examined not later than twenty-four hours before the hearing date by a physician for the purpose of a physical examination and by a qualified health professional for the purpose of a drug and alcohol addiction assessment and diagnosis. In addition, the court shall notify the respondent that the respondent may have an independent expert evaluation of the person's physical and mental condition conducted at the respondent's own expense.

(5) Cause the respondent to be examined not later than twenty-four hours before the hearing date by a physician for the purpose of a physical examination and by a qualified health professional for the purpose of a drug and alcohol addiction assessment and diagnosis;

(6) Conduct the hearing.

(C) The physician and qualified health professional who examine the respondent pursuant to division (B)(5) of this section or who are obtained by the respondent at the respondent's own expense shall certify their findings to the court within twenty-four hours of the examinations. The findings of each qualified health professional shall include a recommendation for treatment if the qualified

health professional determines that treatment is necessary.

(D)(1) If upon completion of the hearing held under this section the probate court finds by clear and convincing evidence that the respondent may reasonably benefit from treatment, the court may order the treatment after considering the qualified health professionals' recommendations for treatment that have been submitted to the court under division (C) of this section. If the court orders the treatment under this division, the court shall order the treatment to be provided through a community addiction services provider or by an individual licensed or certified by the state medical board under Chapter 4731. of the Revised Code, the chemical dependency professionals board under Chapter 4758. of the Revised Code, the counselor, social worker, and marriage and family therapist board under Chapter 4757. of the Revised Code, or a similar board of another state authorized to provide substance abuse treatment.

(2) Failure of a respondent to undergo and complete any treatment ordered pursuant to this division is contempt of court. Any community addiction services provider or person providing treatment under this division shall notify the probate court of a respondent's failure to undergo or complete the ordered treatment.

(E) If, at any time after a petition is filed under section 5119.93 of the Revised Code, the probate court finds that there is not probable cause to continue treatment or if the petitioner withdraws the petition, then the court shall dismiss the proceedings against the respondent.

**Sec. 5119.99.** (A) Whoever violates section 5119.333 of the Revised Code is guilty of a misdemeanor of the first degree.

(B) Whoever violates division (B) of section 5119.61 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(C) Whoever violates section 5119.27 or 5119.28 or division (H) of section 5119.36 of the Revised Code is guilty of a felony of the fifth degree.

**Sec. 5120.035.**

**Sec. 5120.037.**

**Sec. 5120.112.** (A) The division of parole and community services shall accept applications for state financial assistance for the renovation, maintenance, and operation of proposed and approved community-based correctional facilities and programs and district community-based correctional facilities and programs that are filed in accordance with section 2301.56 of the Revised Code. The division, upon receipt of an application for a particular facility and program, shall determine whether the application is in proper form, whether the applicant satisfies the standards of operation that are prescribed by the department of rehabilitation and correction under section 5120.111 of the Revised Code, whether the applicant has established the facility and program, and, if the applicant has not at that time established the facility and program, whether the proposal of the applicant sufficiently indicates that the standards will be satisfied upon the establishment of the facility and program. If the division determines that the application is in proper form and that the applicant has satisfied or will satisfy the standards of the department, the division shall notify the applicant that it is qualified to receive state financial assistance for the facility and program under this section from moneys made available to the division for purposes of providing assistance to community-based correctional facilities and programs and district community-based correctional facilities and programs.

(B) The amount of state financial assistance that is awarded to a qualified applicant under this section shall be determined by the division of parole and community services in accordance with this division. In determining the amount of state financial assistance to be awarded to a qualified applicant under this section, the division shall not calculate the cost of an offender incarcerated in a community-based correctional facility and program or district community-based correctional facility program to be greater than the average yearly cost of incarceration per inmate in all state correctional institutions, as defined in section 2967.01 of the Revised Code, as determined by the department of rehabilitation and correction.

The times and manner of distribution of state financial assistance to be awarded to a qualified applicant under this section shall be determined by the division of parole and community services.

(C) Upon approval of a proposal for a community-based correctional facility and program or a district community-based correctional facility and program by the division of parole and community services, the facility governing board, upon the advice of the judicial advisory board, shall enter into an award agreement with the department of rehabilitation and correction that outlines terms and conditions of the agreement on an annual basis. In the award agreement, the facility governing board shall identify a fiscal agent responsible for the deposit of funds and compliance with sections 2301.55 and 2301.56 of the Revised Code.

(D) No state financial assistance shall be distributed to a qualified applicant until an agreement concerning the assistance has been entered into by the director of rehabilitation and correction and the deputy director of the division of parole and community services on the part of the state, and by the chairperson of the facility governing board of the community-based correctional facility and program or district community-based correctional facility and program to receive the financial assistance, whichever is applicable. The agreement shall be effective for a period of one year from the date of the agreement and shall specify all terms and conditions that are applicable to the awarding of the assistance, including, but not limited to:

(1) The total amount of assistance to be awarded for each community-based correctional facility and program or district community-based correctional facility and program, and the times and manner of the payment of the assistance;

(2) How persons who will staff and operate the facility and program are to be utilized during the period for which the assistance is to be granted, including descriptions of their positions and duties, and their salaries and fringe benefits;

(3) A statement that none of the persons who will staff and operate the facility and program, including those who are receiving some or all of their salaries out of funds received by the facility and program as state financial assistance, are employees or are to be considered as being employees of the department of rehabilitation and correction, and a statement that the employees who will staff and operate that facility and program are employees of the facility and program;

(4) A list of the type of expenses, other than salaries of persons who will staff and operate the facility and program, for which the state financial assistance can be used, and a requirement that purchases made with funds received as state financial assistance follow established fiscal guidelines as determined by the division of parole and community services and any applicable sections of the Revised Code, including, but not limited to, sections 125.01 to 125.11 and Chapter 153. of the Revised Code;

(5) The accounting procedures that are to be used by the facility and program in relation to the state financial assistance;

(6) A requirement that the facility and program file reports, during the period that it receives state financial assistance, with the division of parole and community services, which reports shall be statistical in nature and shall contain that information required under a research design agreed upon by all parties to the agreement, for purposes of evaluating the facility and program;

(7) A requirement that the facility and program comply with standards of operation as prescribed by the department under section 5120.111 of the Revised Code, and with all information submitted on its application;

(8) A statement that the facility and program will make a reasonable effort to augment the funding received from the state.

(E)(1) No state financial assistance shall be distributed to a qualified applicant until its proposal for a community-based correctional facility and program or district community-based correctional facility and program has been approved by the division of parole and community services.

(2) State financial assistance may be denied to any applicant if it fails to comply with the terms of any agreement entered into pursuant to division (D) of this section.

(F) The division of parole and community services may expend up to one-half per cent of the annual appropriation made for community-based correctional facility programs, for goods or services that benefit those programs.

**Sec. 5120.135.** (A) As used in this section, "laboratory services" includes the performance of medical laboratory analysis; professional laboratory and pathologist consultation; the procurement, storage, and distribution of laboratory supplies; and the performance of phlebotomy services.

(B) The department of rehabilitation and correction may provide laboratory services to the departments of mental health and addiction services, developmental disabilities, youth services, and rehabilitation and correction. The department of rehabilitation and correction may also provide laboratory services to other state, county, or municipal agencies and to private persons that request laboratory services if the department of rehabilitation and correction determines that the provision of laboratory services is in the public interest and considers it advisable to provide such services. The department of rehabilitation and correction may also provide laboratory services to agencies operated by the United States government and to public and private entities funded in whole or in part by the state if the director of rehabilitation and correction designates them as eligible to receive such services.

The department of rehabilitation and correction shall provide laboratory services from a laboratory that complies with the standards for certification set by the United States department of health and human services under the "Clinical Laboratory Improvement Amendments of 1988," 102 Stat. 293, 42 U.S.C.A. 263a. In addition, the laboratory shall maintain accreditation or certification with an appropriate accrediting or certifying organization as considered necessary by the recipients of its laboratory services and as authorized by the director of rehabilitation and correction.

**Sec. 5120.28.** (A) The department of rehabilitation and correction shall fix the prices at which all labor and services performed, all agricultural products produced, and all articles manufactured in correctional and penal institutions shall be furnished to the state, the political subdivisions of the

state, and the public institutions of the state and the political subdivisions, and to private persons. The prices shall be uniform to all and not higher than the usual market price for like labor, products, services, and articles.

(B) Any money received by the department of rehabilitation and correction for labor and services performed shall be deposited into the institutional services fund created pursuant to division (A) of section 5120.29 of the Revised Code and shall be used and accounted for as provided in that section and division (B) of section 5145.03 of the Revised Code.

(C) Any money received by the department of rehabilitation and correction for articles manufactured and agricultural products produced in penal and correctional institutions shall be deposited into the Ohio penal industries manufacturing fund created pursuant to division (B) of section 5120.29 of the Revised Code and shall be used and accounted for as provided in that section and division (B) of section 5145.03 of the Revised Code.

**Sec. 5120.38.** Subject to the rules of the department of rehabilitation and correction, each institution under the department's jurisdiction other than an institution operated pursuant to a contract entered into under section 9.06 of the Revised Code shall be under the control of a managing officer known as a warden or other appropriate title. The managing officer shall be appointed by the director of rehabilitation and correction and shall be in the unclassified service and serve at the pleasure of the director. Appointment to the position of managing officer shall be made from persons who have criminal justice experience.

A person who is appointed to the position of managing officer from a permanent, classified position within the department shall retain the right to resume the position and status that the person held in the classified service immediately prior to the person's appointment to the position in the unclassified service, regardless of the number of positions the person held in the unclassified service. An employee's right to resume a position in the classified service may be exercised only when an appointing authority demotes the employee to a pay range lower than the employee's current pay range or revokes the employee's appointment to the position in the unclassified service. An employee who holds a position in the classified service and who is appointed to a position in the unclassified service on or after January 1, 2016, shall have the right to resume a position in the classified service under this section only within five years after the effective date of the employee's appointment in the unclassified service. An employee forfeits the right to resume a position in the classified service if the employee is removed from a position in the unclassified service due to incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, a violation of this chapter or the rules of the department or the director of administrative services, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of or plea of guilty to a felony while employed in the civil service. An employee also forfeits the right to resume the prior position in the classified service upon transfer to a different agency. Reinstatement to a position in the classified service shall be to a position substantially equal to the position in the classified service that the person previously held, as certified by the director of rehabilitation and correction and approved by the director of administrative services. If the position the person previously held in the classified service has been placed in the unclassified service or is otherwise unavailable, the person shall be appointed to a position in the classified service within the department that the director of administrative services



certifies is comparable in compensation to the position the person previously held in the classified service. Service in a position in the unclassified service shall be counted as service in the position in the classified service held by the person immediately preceding the person's appointment to the position in the unclassified service. When a person is reinstated to a position in the classified service, as provided in this section, the person is entitled to all rights and benefits and any status accruing to the position in the classified service during the time of the person's service in the position in the unclassified service.

The managing officer, under the director of rehabilitation and correction, shall have entire executive charge of the institution for which the managing officer is appointed. Subject to civil service rules and regulations, the managing officer shall appoint the necessary employees and the managing officer or the director may remove such employees for cause.

**Sec. 5120.381.** Subject to the rules of the department of rehabilitation and correction, the director of rehabilitation and correction may appoint a deputy warden for each institution under the jurisdiction of the department. A deputy warden shall be in the unclassified service and serve at the pleasure of the director of rehabilitation and correction. The director of rehabilitation and correction shall make an appointment to the position of deputy warden from persons having criminal justice experience. A person who is appointed to a position as deputy warden from a permanent, classified position within the department shall retain the right to resume the position and status that the person held in the classified service immediately prior to the person's appointment to the position in the unclassified service, regardless of the number of positions the person held in the unclassified service. An employee's right to resume a position in the classified service may be exercised only when an appointing authority demotes the employee to a pay range lower than the employee's current pay range or revokes the employee's appointment to the unclassified service. An employee who holds a position in the classified service and who is appointed to a position in the unclassified service on or after January 1, 2016, shall have the right to resume a position in the classified service under this section only within five years after the effective date of the employee's appointment in the unclassified service. An employee forfeits the right to resume a position in the classified service when the employee is removed from the position in the unclassified service due to incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, a violation of this chapter or the rules of the department or the director of administrative services, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of or plea of guilty to a felony while employed in the civil service. An employee also forfeits the right to resume the prior position in the classified service upon transfer to a different agency. Reinstatement to a position in the classified service shall be to a position substantially equal to the position in the classified service that the person previously held, as certified by the director of rehabilitation and correction and approved by the director of administrative services. If the position the person previously held in the classified service has been placed in the unclassified service or is otherwise unavailable, the person shall be appointed to a position in the classified service within the department that the director of administrative services certifies is comparable in compensation to the position the person previously held in the classified service. Service in the position in the unclassified service shall be counted as service in the position in the classified service that the person held immediately preceding the person's appointment to the

position in the unclassified service. When a person who is reinstated to a position in the classified service as provided in this section, the person is entitled to all rights and benefits and any status accruing to the position during the time of the person's service in the unclassified service.

**Sec. 5120.382.** Except as otherwise provided in this chapter for appointments by division chiefs and managing officers, the director of rehabilitation and correction shall appoint employees who are necessary for the efficient conduct of the department of rehabilitation and correction and prescribe their titles and duties. A person who is appointed to an unclassified position from a permanent, classified position within the department shall retain the right to resume the position and status that the person held in the classified service immediately prior to the person's appointment to the position in the unclassified service, regardless of the number of positions the person held in the unclassified service. An employee's right to resume a position in the classified service may be exercised only when an appointing authority demotes the employee to a pay range lower than the employee's current pay range or revokes the employee's appointment to the unclassified service. An employee who holds a position in the classified service and who is appointed to a position in the unclassified service on or after January 1, 2016, shall have the right to resume a position in the classified service under this section only within five years after the effective date of the person's appointment in the unclassified service. An employee forfeits the right to resume a position in the classified service when the employee is removed from the position in the unclassified service due to incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, a violation of this chapter or the rules of the department or the director of administrative services, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of or plea of guilty to a felony while employed in the civil service. An employee also forfeits the right to resume the prior position in the classified service upon transfer to a different agency. Reinstatement to a position in the classified service shall be to a position substantially equal to the position in the classified service that the person previously held, as certified by the director of rehabilitation and correction and approved by the director of administrative services. If the position the person previously held in the classified service has been placed in the unclassified service or is otherwise unavailable, the person shall be appointed to a position in the classified service within the department that the director of administrative services certifies is comparable in compensation to the position the person previously held in the classified service. Service in the position in the unclassified service shall be counted as service in the position in the classified service that the person held immediately preceding the person's appointment to the position in the unclassified service. When a person is reinstated to a position in the classified service as provided in this section, the person is entitled to all rights and benefits and any status accruing to the position in the classified service during the time of the person's service in the position in the unclassified service.

**Sec. 5122.31.** (A) All certificates, applications, records, and reports made for the purpose of this chapter and sections 2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised Code, other than court journal entries or court docket entries, and directly or indirectly identifying a patient or former patient or person whose hospitalization or commitment has been sought under this chapter, shall be kept confidential and shall not be disclosed by any person except:

- (1) If the person identified, or the person's legal guardian, if any, or if the person is a minor,

the person's parent or legal guardian, consents, and if the disclosure is in the best interests of the person, as may be determined by the court for judicial records and by the chief clinical officer for medical records;

(2) When disclosure is provided for in this chapter or Chapters 340. or 5119. of the Revised Code or in accordance with other provisions of state or federal law authorizing such disclosure;

(3) That hospitals, boards of alcohol, drug addiction, and mental health services, and community mental health services providers may release necessary medical information to insurers and other third-party payers, including government entities responsible for processing and authorizing payment, to obtain payment for goods and services furnished to the patient;

(4) Pursuant to a court order signed by a judge;

(5) That a patient shall be granted access to the patient's own psychiatric and medical records, unless access specifically is restricted in a patient's treatment plan for clear treatment reasons;

(6) That hospitals and other institutions and facilities within the department of mental health and addiction services may exchange psychiatric records and other pertinent information with other hospitals, institutions, and facilities of the department, and with community mental health services providers and boards of alcohol, drug addiction, and mental health services with which the department has a current agreement for patient care or services. Records and information that may be released pursuant to this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment in the hospital, summary of treatment needs, and a discharge summary, if any.

(7) That hospitals within the department and other institutions and facilities within the department may exchange psychiatric records and other pertinent information with payers and other providers of treatment, health services, and recovery supports if the purpose of the exchange is to facilitate continuity of care for a patient or for the emergency treatment of an individual;

(8) That a patient's family member who is involved in the provision, planning, and monitoring of services to the patient may receive medication information, a summary of the patient's diagnosis and prognosis, and a list of the services and personnel available to assist the patient and the patient's family, if the patient's treating physician determines that the disclosure would be in the best interests of the patient. No such disclosure shall be made unless the patient is notified first and receives the information and does not object to the disclosure.

(9) That community mental health services providers may exchange psychiatric records and certain other information with the board of alcohol, drug addiction, and mental health services and other services providers in order to provide services to a person involuntarily committed to a board. Release of records under this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment, summary of treatment needs, and discharge summary, if any.

(10) That information may be disclosed to the executor or the administrator of an estate of a deceased patient when the information is necessary to administer the estate;

(11) That records in the possession of the Ohio history connection may be released to the closest living relative of a deceased patient upon request of that relative;

(12) That records pertaining to the patient's diagnosis, course of treatment, treatment needs, and prognosis shall be disclosed and released to the appropriate prosecuting attorney if the patient

was committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, or to the attorney designated by the board for proceedings pursuant to involuntary commitment under this chapter.

(13) That the department of mental health and addiction services may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with the department of rehabilitation and correction and with the department of youth services to ensure continuity of care for inmates or offenders who are receiving mental health services in an institution of the department of rehabilitation and correction or the department of youth services and may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with boards of alcohol, drug addiction, and mental health services and community mental health services providers to ensure continuity of care for inmates or offenders who are receiving mental health services in an institution and are scheduled for release within six months. The release of records under this division is limited to records regarding an inmate's or offender's medication history, physical health status and history, summary of course of treatment, summary of treatment needs, and a discharge summary, if any;

(14) That records and reports relating to a person who has been deceased for fifty years or more are no longer considered confidential.

(B) Before records are disclosed pursuant to divisions (A)(3), (6), and (9) of this section, the custodian of the records shall attempt to obtain the patient's consent for the disclosure. No person shall reveal the contents of a medical record of a patient except as authorized by law.

(C) The managing officer of a hospital who releases necessary medical information under division (A)(3) of this section to allow an insurance carrier or other third party payor to comply with section 5121.43 of the Revised Code shall neither be subject to criminal nor civil liability.

**Sec. 5122.36.** If the legal residence of a person suffering from mental illness is in another county of the state, the necessary expense of the person's return is a proper charge against the county of legal residence. If an adjudication and order of hospitalization by the probate court of the county of temporary residence are required, the regular probate court fees and expenses incident to the order of hospitalization under this chapter and any other expense incurred on the person's behalf shall be charged to and paid by the county of the person's legal residence upon the approval and certification of the probate judge of the county of the person's legal residence. The ordering court shall send to the probate court of the person's county of legal residence a certified copy of the commitment order from the ordering court. The receiving court shall enter and record the commitment order. The certified commitment order is prima facie evidence of the residence of the person. When the residence of the person cannot be established as represented by the ordering court, the matter of residence shall be referred to the department of mental health and addiction services for investigation and determination.

**Sec. 5123.032.** (A) As used in this section, "developmental center" means any institution or facility of the department of developmental disabilities that, on or after January 30, 2004, is named, designated, or referred to as a developmental center.

(B) Notwithstanding any other provision of law, any closure of a developmental center shall be subject to, and in accordance with, this section.

(C) Notwithstanding any other provision of law, at least ten days prior to making any official,

public announcement that the governor intends to close one or more developmental centers, the governor shall notify the general assembly in writing that the governor intends to close one or more developmental centers. The governor shall notify the general assembly in writing of the prior announcement and that the governor intends to close the center identified in the prior announcement, and the notification to the general assembly shall constitute, for purposes of this section, the governor's official, public announcement that the governor intends to close that center.

The notice required by this division shall identify by name each developmental center that the governor intends to close or, if the governor has not determined any specific developmental center to close, shall state the governor's general intent to close one or more developmental centers. When the governor notifies the general assembly as required by this division, the legislative service commission promptly shall conduct an independent study of the developmental centers of the department of developmental disabilities and of the department's operation of the centers, and the study shall address relevant criteria and factors, including, but not limited to, all of the following:

(1) The manner in which the closure of developmental centers in general would affect the safety, health, well-being, and lifestyle of the centers' residents and their family members and would affect public safety and, if the governor's notice identifies by name one or more developmental centers that the governor intends to close, the manner in which the closure of each center so identified would affect the safety, health, well-being, and lifestyle of the center's residents and their family members and would affect public safety;

(2) The availability of alternate facilities;

(3) The cost effectiveness of the facilities identified for closure;

(4) A comparison of the cost of residing at a facility identified for closure and the cost of new living arrangements;

(5) The geographic factors associated with each facility and its proximity to other similar facilities;

(6) The impact of collective bargaining on facility operations;

(7) The utilization and maximization of resources;

(8) Continuity of the staff and ability to serve the facility population;

(9) Continuing costs following closure of a facility;

(10) The impact of the closure on the local economy;

(11) Alternatives and opportunities for consolidation with other facilities;

(12) How the closing of a facility identified for closure relates to the department's plans for the future of developmental centers in this state;

(13) The effect of the closure of developmental centers in general upon the state's fiscal resources and fiscal status and, if the governor's notice identifies by name one or more developmental centers that the governor intends to close, the effect of the closure of each center so identified upon the state's fiscal resources and fiscal status.

(D) The legislative service commission shall complete the study required by division (C) of this section, and prepare a report that contains its findings, not later than sixty days after the governor makes the official, public announcement that the governor intends to close one or more developmental centers as described in division (C) of this section. The commission shall provide a copy of the report to each member of the general assembly who requests a copy of the report.

**Sec. 5123.033.** The program fee fund is hereby created in the state treasury. All fees collected pursuant to sections 5123.161, 5123.164, and 5123.19 of the Revised Code shall be credited to the fund. Money credited to the fund shall be used solely for the department of developmental disabilities' duties under sections 5123.16 to 5123.1611 and 5123.19 of the Revised Code and to provide continuing education and professional training to providers of services to individuals with developmental disabilities. If the money credited to the fund is inadequate to pay all of the department's costs in performing those duties and providing the continuing education and professional training, the department may use other available funds appropriated to the department to pay the remaining costs of performing those duties and providing the continuing education and professional training.

**Sec. 5123.08.** An appointing officer may appoint a person who holds a certified position in the classified service within the department of developmental disabilities to a position in the unclassified service within the department. A person appointed pursuant to this section to a position in the unclassified service shall retain the right to resume the position and status held by the person in the classified service immediately prior to the person's appointment to the position in the unclassified service, regardless of the number of positions the person held in the unclassified service. An employee's right to resume a position in the classified service may only be exercised when an appointing authority demotes the employee to a pay range lower than the employee's current pay range or revokes the employee's appointment to the unclassified service. An employee who holds a position in the classified service and who is appointed to a position in the unclassified service on or after January 1, 2016, shall have the right to resume a position in the classified service under this section only within five years after the effective date of the employee's appointment in the unclassified service. An employee forfeits the right to resume a position in the classified service when the employee is removed from the position in the unclassified service due to incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of this chapter or Chapter 124. of the Revised Code, the rules of the director of developmental disabilities or the director of administrative services, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony while employed in the civil service. An employee also forfeits the right to resume a position in the classified service upon transfer to a different agency.

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

**Sec. 5123.16.** (A) As used in sections 5123.16 to 5123.1611 of the Revised Code:

- (1) "Applicant" means any of the following:
  - (a) The chief executive officer of a business that applies under section 5123.161 of the Revised Code for a certificate to provide supported living;
  - (b) The chief executive officer of a business that seeks renewal of the business's supported living certificate under section 5123.164 of the Revised Code;
  - (c) An individual who applies under section 5123.161 of the Revised Code for a certificate to provide supported living as an independent provider;
  - (d) An independent provider who seeks renewal of the independent provider's supported living certificate under section 5123.164 of the Revised Code.
- (2) "Business" means an association, corporation, nonprofit organization, partnership, trust, or other group of persons. "Business" does not mean an independent provider.
- (3) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.
- (4) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3) (a) to (e) of section 109.572 of the Revised Code.
- (5) "Independent provider" means a provider who provides supported living on a self-employed basis and does not employ, directly or through contract, another person to provide the supported living.
- (6) "Provider" means a person or government entity certified by the director of developmental disabilities to provide supported living. For the purpose of division (A)(8) of this section, "provider" includes a person or government entity that seeks or previously held a certificate to provide supported living.
- (7) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.
- (8) "Related party" means any of the following:
  - (a) In the case of a provider who is an individual, any of the following:
    - (i) The spouse of the provider;
    - (ii) A parent or stepparent of the provider or provider's spouse;
    - (iii) A child of the provider or provider's spouse;
    - (iv) A sibling, half sibling, or stepsibling of the provider or provider's spouse;
    - (v) A grandparent of the provider or provider's spouse;
    - (vi) A grandchild of the provider or provider's spouse.
  - (b) In the case of a provider that is a person other than an individual, any of the following:
    - (i) Any person or government entity that directly or indirectly controls the provider's day-to-day operations (including as a general manager, business manager, financial manager, administrator, or director), regardless of whether the person or government entity exercises the control pursuant to a contract or other arrangement and regardless of whether the person or government entity is required to file an Internal Revenue Code form W-2 for the provider;
    - (ii) An officer of the provider, including the chief executive officer, president, vice-president, secretary, and treasurer;
    - (iii) A member of the provider's board of directors or trustees;
    - (iv) A person owning a financial interest of five per cent or more in the provider, including a

direct, indirect, security, or mortgage financial interest;

(v) The spouse, parent, stepparent, child, sibling, half sibling, stepsibling, grandparent, or grandchild of any of the persons specified in divisions (A)(8)(b)(i) to (iv) of this section;

(vi) A person over which the provider has control of the day-to-day operation;

(vii) A corporation that has a subsidiary relationship with the provider.

(c) In the case of a provider that is a government entity, any of the following:

(i) Any person or government entity that directly or indirectly controls the provider's day-to-day operations (including as a general manager, financial manager, administrator, or director), regardless of whether the person or government entity exercises the control pursuant to a contract or other arrangement;

(ii) An officer of the provider;

(iii) A member of the provider's governing board;

(iv) A person or government entity over which the provider has control of the day-to-day operation.

(B) No person or government entity may provide supported living without a valid supported living certificate issued by the director of developmental disabilities.

(C) A county board of developmental disabilities may provide supported living only to the extent permitted by rules adopted under section 5123.1611 of the Revised Code.

**Sec. 5123.161.** A person or government entity that seeks to provide supported living shall apply to the director of developmental disabilities for a supported living certificate.

Except as provided in sections 5123.166 and 5123.169 of the Revised Code, the director shall issue to the person or government entity a supported living certificate if the person or government entity follows the application process established in rules adopted under section 5123.1611 of the Revised Code, meets the applicable certification standards established in those rules, and pays the certification fee established in those rules.

**Sec. 5123.162.** (A) The director of developmental disabilities may conduct surveys of persons and government entities that seek a supported living certificate to determine whether the persons and government entities meet the certification standards. The director may also conduct surveys of providers to determine whether the providers continue to meet the certification standards. The director may assign to a county board of developmental disabilities the responsibility to conduct either type of survey. Each survey shall be conducted in accordance with rules adopted under section 5123.1611 of the Revised Code.

(B) Following each survey of a provider, the director shall issue a report listing the date of the survey, any citations issued as a result of the survey, and the statutes or rules that purportedly have been violated and are the bases of the citations. The director shall also do both of the following:

(1) Specify a date by which the provider may appeal any of the citations;

(2) When appropriate, specify a timetable within which the provider must submit a plan of correction describing how the problems specified in the citations will be corrected and the date by which the provider anticipates the problems will be corrected.

(C) If the director initiates a proceeding to revoke a provider's certification, the director shall include the report required by division (B) of this section with the notice of the proposed revocation the director sends to the provider. In this circumstance, the provider may not submit a plan of



correction.

(D) After a plan of correction is submitted, the director shall approve or disapprove the plan. If the plan of correction is approved, a copy of the approved plan shall be provided, not later than five business days after it is approved, to any person or government entity that requests it and made available on the internet web site maintained by the department of developmental disabilities. If the plan of correction is not approved and the director initiates a proceeding to revoke the provider's certification, a copy of the survey report shall be provided to any person or government entity that requests it and shall be made available on the internet web site maintained by the department.

(E) In addition to survey reports described in this section, all other records associated with surveys conducted under this section are public records for the purpose of section 149.43 of the Revised Code and shall be made available on the request of any person or government entity.

**Sec. 5123.163.** A supported living certificate is valid for a period of time established in rules adopted under section 5123.1611 of the Revised Code, unless any of the following occur before the end of that period of time:

(A) The director of developmental disabilities issues an order requiring that action be taken against the certificate holder under section 5123.166 of the Revised Code.

(B) The director issues an order terminating the certificate under section 5123.168 of the Revised Code.

(C) The certificate holder voluntarily surrenders the certificate to the director.

**Sec. 5123.164.** Except as provided in sections 5123.166 and 5123.169 of the Revised Code, the director of developmental disabilities shall renew a supported living certificate if the certificate holder follows the renewal process established in rules adopted under section 5123.1611 of the Revised Code, continues to meet the applicable certification standards established in those rules, and pays the renewal fee established in those rules.

**Sec. 5123.166.** (A) If good cause exists as specified in division (B) of this section and determined in accordance with procedures established in rules adopted under section 5123.1611 of the Revised Code, the director of developmental disabilities may issue an adjudication order requiring that one of the following actions be taken against a person or government entity seeking or holding a supported living certificate:

(1) Refusal to issue or renew a supported living certificate;

(2) Revocation of a supported living certificate;

(3) Suspension of a supported living certificate holder's authority to do either or both of the following:

(a) Continue to provide supported living to one or more individuals from one or more counties who receive supported living from the certificate holder at the time the director takes the action;

(b) Begin to provide supported living to one or more individuals from one or more counties who do not receive supported living from the certificate holder at the time the director takes the action.

(B) The following constitute good cause for taking action under division (A) of this section against a person or government entity seeking or holding a supported living certificate:

(1) The person or government entity's failure to meet or continue to meet the applicable

certification standards established in rules adopted under section 5123.1611 of the Revised Code;

(2) The person or government entity violates section 5123.165 of the Revised Code;

(3) The person or government entity's failure to satisfy the requirements of section 5123.081 or 5123.52 of the Revised Code;

(4) Mifeasance;

(5) Malfeasance;

(6) Nonfeasance;

(7) Confirmed abuse or neglect;

(8) Financial irresponsibility;

(9) Other conduct the director determines is or would be injurious to individuals who receive or would receive supported living from the person or government entity.

(C) Except as provided in division (D) of this section, the director shall issue an adjudication order under division (A) of this section in accordance with Chapter 119. of the Revised Code.

(D)(1) The director may issue an order requiring that action specified in division (A)(3) of this section be taken before a provider is provided notice and an opportunity for a hearing if all of the following are the case:

(a) The director determines such action is warranted by the provider's failure to continue to meet the applicable certification standards;

(b) The director determines that the failure either represents a pattern of serious noncompliance or creates a substantial risk to the health or safety of an individual who receives or would receive supported living from the provider;

(c) If the order will suspend the provider's authority to continue to provide supported living to an individual who receives supported living from the provider at the time the director issues the order, both of the following are the case:

(i) The director makes the individual, or the individual's guardian, aware of the director's determination under division (D)(1)(b) of this section and the individual or guardian does not select another provider.

(ii) A county board of developmental disabilities has filed a complaint with a probate court under section 5126.33 of the Revised Code that includes facts describing the nature of abuse or neglect that the individual has suffered due to the provider's actions that are the basis for the director making the determination under division (D)(1)(b) of this section and the probate court does not issue an order authorizing the county board to arrange services for the individual pursuant to an individualized service plan developed for the individual under section 5126.31 of the Revised Code.

(2) If the director issues an order under division (D)(1) of this section, sections 119.091 to 119.13 of the Revised Code and all of the following apply:

(a) The director shall send the provider notice of the order by registered mail, return receipt requested, not later than twenty-four hours after issuing the order and shall include in the notice the reasons for the order, the citation to the law or rule directly involved, and a statement that the provider will be afforded a hearing if the provider requests it within ten days of the time of receiving the notice.

(b) If the provider requests a hearing within the required time and the provider has provided the director the provider's current address, the director shall immediately set, and notify the provider

of, the date, time, and place for the hearing.

(c) The date of the hearing shall be not later than thirty days after the director receives the provider's timely request for the hearing.

(d) The hearing shall be conducted in accordance with section 119.09 of the Revised Code, except for all of the following:

(i) The hearing shall continue uninterrupted until its close, except for weekends, legal holidays, and other interruptions the provider and director agree to.

(ii) If the director appoints a referee or examiner to conduct the hearing, the referee or examiner, not later than ten days after the date the referee or examiner receives a transcript of the testimony and evidence presented at the hearing or, if the referee or examiner does not receive the transcript or no such transcript is made, the date that the referee or examiner closes the record of the hearing, shall submit to the director a written report setting forth the referee or examiner's findings of fact and conclusions of law and a recommendation of the action the director should take.

(iii) The provider may, not later than five days after the date the director, in accordance with section 119.09 of the Revised Code, sends the provider or the provider's attorney or other representative of record a copy of the referee or examiner's report and recommendation, file with the director written objections to the report and recommendation.

(iv) The director shall approve, modify, or disapprove the referee or examiner's report and recommendation not earlier than six days, and not later than fifteen days, after the date the director, in accordance with section 119.09 of the Revised Code, sends a copy of the report and recommendation to the provider or the provider's attorney or other representative of record.

(3) The director may lift an order issued under division (D)(1) of this section even though a hearing regarding the order is occurring or pending if the director determines that the provider has taken action eliminating the good cause for issuing the order. The hearing shall proceed unless the provider withdraws the request for the hearing in a written letter to the director.

(4) The director shall lift an order issued under division (D)(1) of this section if both of the following are the case:

(a) The provider provides the director a plan of compliance the director determines is acceptable.

(b) The director determines that the provider has implemented the plan of compliance correctly.

**Sec. 5123.167.** If the director of developmental disabilities issues an adjudication order under section 5123.166 of the Revised Code refusing to issue a supported living certificate to a person or government entity, refusing to renew a person or government entity's supported living certificate, or revoking the person or government entity's supported living certificate, neither the person or government entity nor a related party of the person or government entity may apply for another supported living certificate earlier than the date that is five years after the date the order is issued. If a person or government entity's authority to provide medicaid-funded supported living is revoked or renewal of the authority is refused pursuant to section 5123.1610 of the Revised Code, neither the person or government entity nor a related party of the person or government entity may apply for authority to provide medicaid-funded supported living again earlier than the date ~~this~~ that is five years after the date the authority is revoked or expired.

**Sec. 5123.169.** (A) The director of developmental disabilities shall not issue a supported living certificate to an applicant or renew an applicant's supported living certificate if either of the following applies:

(1) The applicant fails to comply with division (C)(2) of this section;

(2) Except as provided in rules adopted under section 5123.1611 of the Revised Code, the applicant is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(B) Before issuing a supported living certificate to an applicant or renewing an applicant's supported living certificate, the director shall require the applicant to submit a statement with the applicant's signature attesting that the applicant has not been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense. The director also shall require the applicant to sign an agreement under which the applicant agrees to notify the director within fourteen calendar days if, while holding a supported living certificate, the applicant is formally charged with, is convicted of, pleads guilty to, or is found eligible for intervention in lieu of conviction for a disqualifying offense. The agreement shall provide that the applicant's failure to provide the notification may result in action being taken by the director against the applicant under section 5123.166 of the Revised Code.

(C)(1) As a condition of receiving a supported living certificate or having a supported living certificate renewed, an applicant shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check of the applicant. If an applicant does not present proof to the director that the applicant has been a resident of this state for the five-year period immediately prior to the date that the applicant applies for issuance or renewal of the supported living certificate, the director shall require the applicant to request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check. If the applicant presents proof to the director that the applicant has been a resident of this state for that five-year period, the director may require the applicant to request that the superintendent include information from the federal bureau of investigation in the criminal records check. For purposes of this division, an applicant may provide proof of residency in this state by presenting, with a notarized statement asserting that the applicant has been a resident of this state for that five-year period, a valid driver's license, notification of registration as an elector, a copy of an officially filed federal or state tax form identifying the applicant's permanent residence, or any other document the director considers acceptable.

(2) Each applicant shall do all of the following:

(a) Obtain a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code;

(b) Complete the form and provide the applicant's fingerprint impressions on the standard impression sheet;

(c) Forward the completed form and standard impression sheet to the superintendent at the time the criminal records check is requested;

(d) Instruct the superintendent to submit the completed report of the criminal records check

directly to the director;

(e) Pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check of the applicant requested and conducted pursuant to this section.

(D) The director may request any other state or federal agency to supply the director with a written report regarding the criminal record of an applicant. The director may consider the reports when determining whether to issue a supported living certificate to the applicant or to renew an applicant's supported living certificate.

(E) An applicant who seeks to be an independent provider or is an independent provider seeking renewal of the applicant's supported living certificate shall obtain the applicant's driving record from the bureau of motor vehicles and provide a copy of the record to the director if the supported living that the applicant will provide involves transporting individuals with developmental disabilities. The director may consider the applicant's driving record when determining whether to issue the applicant a supported living certificate or to renew the applicant's supported living certificate.

(F)(1) A report obtained pursuant to this section is not a public record for purposes of section 149.43 of the Revised Code and shall not be made available to any person, other than the following:

(a) The applicant who is the subject of the report or the applicant's representative;  
(b) The director or the director's representative;  
(c) Any court, hearing officer, or other necessary individual involved in a case dealing with any of the following:

(i) The denial of a supported living certificate or refusal to renew a supported living certificate;

(ii) The denial, suspension, or revocation of a certificate under section 5123.45 of the Revised Code;

(iii) A civil or criminal action regarding the medicaid program.

(2) An applicant for whom the director has obtained reports under this section may submit a written request to the director to have copies of the reports sent to any person or state or local government entity. The applicant shall specify in the request the person or entities to which the copies are to be sent. On receiving the request, the director shall send copies of the reports to the persons or entities specified.

(3) The director may request that a person or state or local government entity send copies to the director of any report regarding a records check or criminal records check that the person or entity possesses, if the director obtains the written consent of the individual who is the subject of the report.

(4) The director shall provide each applicant with a copy of any report obtained about the applicant under this section.

**Sec. 5123.1610.**

**Sec. 5123.1610** **5123.1611.** (A) All of the following apply if the department of medicaid, pursuant to section 5164.38 of the Revised Code, refuses to enter into, terminates, or refuses to revalidate a provider agreement that authorizes a person or government entity to provide supported living under the medicaid program:

(1) In the case of a refusal to enter into a provider agreement, the person or government entity's application to provide medicaid-funded supported living under a supported living certificate is automatically denied on the date the department of medicaid refuses to enter into the provider agreement.

(2) In the case of a terminated provider agreement, the person or government entity's authority to provide medicaid-funded supported living under a supported living certificate is automatically revoked on the date that the provider agreement is terminated.

(3) In the case of a provider agreement that expires because the department of medicaid refuses to revalidate it, the person or government entity's authority to provide medicaid-funded supported living under a supported living certificate is automatically revoked on the date that the provider agreement expires, unless the expiration date of the provider agreement is the same as the expiration date of the supported living certificate, in which case the director of developmental disabilities shall refuse to renew the person or government entity's authority to provide medicaid-funded supported living under the certificate.

(B) The director of developmental disabilities is not required to issue an adjudication order in accordance with Chapter 119. of the Revised Code to do any of the following pursuant to this section:

(1) Deny a person or government entity's application to provide medicaid-funded supported living;

(2) Revoke a person or government entity's authority to provide medicaid-funded supported living;

(3) Refuse to renew a person or government entity's authority to provide medicaid-funded supported living.

(C) This section does not affect a person or government entity's opportunity or authority to do either of the following:

(1) Apply to provide nonmedicaid-funded supported living under a supported living certificate;

(2) Provide nonmedicaid-funded supported living under a supported living certificate.

**Sec. 5123.19.** (A) As used in sections 5123.19 to 5123.20 of the Revised Code:

(1) "Independent living arrangement" means an arrangement in which an individual with a developmental disability resides in an individualized setting chosen by the individual or the individual's guardian, which is not dedicated principally to the provision of residential services for individuals with developmental disabilities, and for which no financial support is received for rendering such service from any governmental agency by a provider of residential services.

(2) "Licensee" means the person or government agency that has applied for a license to operate a residential facility and to which the license was issued under this section.

(3) "Political subdivision" means a municipal corporation, county, or township.

(4) "Related party" has the same meaning as in section 5123.16 of the Revised Code except that "provider" as used in the definition of "related party" means a person or government entity that held or applied for a license to operate a residential facility, rather than a person or government entity certified to provide supported living.

(5)(a) Except as provided in division (A)(5)(b) of this section, "residential facility" means a

home or facility, including an ICF/IID, in which an individual with a developmental disability resides.

(b) "Residential facility" does not mean any of the following:

(i) The home of a relative or legal guardian in which an individual with a developmental disability resides;

(ii) A respite care home certified under section 5126.05 of the Revised Code;

(iii) A county home or district home operated pursuant to Chapter 5155. of the Revised Code;

(iv) A dwelling in which the only residents with developmental disabilities are in independent living arrangements or are being provided supported living.

(B) Every person or government agency desiring to operate a residential facility shall apply for licensure of the facility to the director of developmental disabilities unless the residential facility is subject to section 3721.02, 5103.03, 5119.33, or division (B)(1)(b) of section 5119.34 of the Revised Code.

(C) Subject to section 5123.196 of the Revised Code, the director of developmental disabilities shall license the operation of residential facilities. An initial license shall be issued for a period that does not exceed one year, unless the director denies the license under division (D) of this section. A license shall be renewed for a period that does not exceed three years, unless the director refuses to renew the license under division (D) of this section. The director, when issuing or renewing a license, shall specify the period for which the license is being issued or renewed. A license remains valid for the length of the licensing period specified by the director, unless the license is terminated, revoked, or voluntarily surrendered.

(D) If it is determined that an applicant or licensee is not in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, the director may deny issuance of a license, refuse to renew a license, terminate a license, revoke a license, issue an order for the suspension of admissions to a facility, issue an order for the placement of a monitor at a facility, issue an order for the immediate removal of residents, or take any other action the director considers necessary consistent with the director's authority under this chapter regarding residential facilities. In the director's selection and administration of the sanction to be imposed, all of the following apply:

(1) The director may deny, refuse to renew, or revoke a license, if the director determines that the applicant or licensee has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of residents of a residential facility.

(2) The director may terminate a license if more than twelve consecutive months have elapsed since the residential facility was last occupied by a resident or a notice required by division (J) of this section is not given.

(3) The director may issue an order for the suspension of admissions to a facility for any violation that may result in sanctions under division (D)(1) of this section and for any other violation specified in rules adopted under division (G)(2) of this section. If the suspension of admissions is imposed for a violation that may result in sanctions under division (D)(1) of this section, the director may impose the suspension before providing an opportunity for an adjudication under Chapter 119. of the Revised Code. The director shall lift an order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(4) The director may order the placement of a monitor at a residential facility for any violation specified in rules adopted under division (G)(2) of this section. The director shall lift the order when the director determines that the violation that formed the basis for the order has been corrected.

(5) When the director initiates license revocation proceedings, no opportunity for submitting a plan of correction shall be given. The director shall notify the licensee by letter of the initiation of the proceedings. The letter shall list the deficiencies of the residential facility and inform the licensee that no plan of correction will be accepted. The director shall also send a copy of the letter to the county board of developmental disabilities. Except in the case of a licensee that is an ICF/IID, the county board shall send a copy of the letter to each of the following:

- (a) Each resident who receives services from the licensee;
- (b) The guardian of each resident who receives services from the licensee if the resident has a guardian;
- (c) The parent or guardian of each resident who receives services from the licensee if the resident is a minor.

(6) Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may order the immediate removal of residents from a residential facility whenever conditions at the facility present an immediate danger of physical or psychological harm to the residents.

(7) In determining whether a residential facility is being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, or whether conditions at a residential facility present an immediate danger of physical or psychological harm to the residents, the director may rely on information obtained by a county board of developmental disabilities or other governmental agencies.

(8) In proceedings initiated to deny, refuse to renew, or revoke licenses, the director may deny, refuse to renew, or revoke a license regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing.

(E)(1) Except as provided in division (E)(2) of this section, appeals from proceedings initiated to impose a sanction under division (D) of this section shall be conducted in accordance with Chapter 119. of the Revised Code.

(2) Appeals from proceedings initiated to order the suspension of admissions to a facility shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply:

- (a) The licensee may request a hearing not later than ten days after receiving the notice specified in section 119.07 of the Revised Code.
- (b) If a timely request for a hearing that includes the licensee's current address is made, the hearing shall commence not later than thirty days after the department receives the request.
- (c) After commencing, the hearing shall continue uninterrupted, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the licensee and the director.
- (d) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations not later than ten days after the last of the following:
  - (i) The close of the hearing;



(ii) If a transcript of the proceedings is ordered, the hearing examiner receives the transcript;

(iii) If post-hearing briefs are timely filed, the hearing examiner receives the briefs.

(e) A copy of the written report and recommendation of the hearing examiner shall be sent, by certified mail, to the licensee and the licensee's attorney, if applicable, not later than five days after the report is filed.

(f) Not later than five days after the hearing examiner files the report and recommendations, the licensee may file objections to the report and recommendations.

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the director shall issue an order approving, modifying, or disapproving the report and recommendations.

(h) Notwithstanding the pendency of the hearing, the director shall lift the order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(F) Neither a person or government agency whose application for a license to operate a residential facility is denied nor a related party of the person or government agency may apply for a license to operate a residential facility before the date that is five years after the date of the denial. Neither a licensee whose residential facility license is revoked nor a related party of the licensee may apply for a residential facility license before the date that is five years after the date of the revocation.

(G) In accordance with Chapter 119. of the Revised Code, the director shall adopt and may amend and rescind rules for licensing and regulating the operation of residential facilities. The rules for residential facilities that are ICFs/IID may differ from those for other residential facilities. The rules shall establish and specify the following:

(1) Procedures and criteria for issuing and renewing licenses, including procedures and criteria for determining the length of the licensing period that the director must specify for each license when it is issued or renewed;

(2) Procedures and criteria for denying, refusing to renew, terminating, and revoking licenses and for ordering the suspension of admissions to a facility, placement of a monitor at a facility, and the immediate removal of residents from a facility;

(3) Fees for issuing and renewing licenses, which shall be deposited into the program fee fund created under section 5123.033 of the Revised Code;

(4) Procedures for surveying residential facilities;

(5) Classifications for the various types of residential facilities;

(6) The maximum number of individuals who may be served in a particular type of residential facility;

(7) Uniform procedures for admission of individuals to and transfers and discharges of individuals from residential facilities;

(8) Other standards for the operation of residential facilities and the services provided at residential facilities;

(9) Procedures for waiving any provision of any rule adopted under this section.

(H)(1) Before issuing a license, the director shall conduct a survey of the residential facility for which application is made. The director shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed.

A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there. The director may assign to a county board of developmental disabilities or the department of health the responsibility to conduct any survey or inspection under this section.

(2) In conducting surveys, the director shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the facility; and all persons acting on behalf of, under the control of, or in connection with the licensee. The licensee and all persons on behalf of, under the control of, or in connection with the licensee shall cooperate with the director in conducting the survey.

(3) Following each survey, the director shall provide the licensee with a report listing the date of the survey, any citations issued as a result of the survey, and the statutes or rules that purportedly have been violated and are the bases of the citations. The director shall also do both of the following:

(a) Specify a date by which the licensee may appeal any of the citations;

(b) When appropriate, specify a timetable within which the licensee must submit a plan of correction describing how the problems specified in the citations will be corrected and, the date by which the licensee anticipates the problems will be corrected.

(4) If the director initiates a proceeding to revoke a license, the director shall include the report required by division (H)(3) of this section with the notice of the proposed revocation the director sends to the licensee. In this circumstance, the licensee may not submit a plan of correction.

(5) After a plan of correction is submitted, the director shall approve or disapprove the plan. If the plan of correction is approved, a copy of the approved plan shall be provided, not later than five business days after it is approved, to any person or government entity who requests it and made available on the internet web site maintained by the department of developmental disabilities. If the plan of correction is not approved and the director initiates a proceeding to revoke the license, a copy of the survey report shall be provided to any person or government entity that requests it and shall be made available on the internet web site maintained by the department.

(6) The director shall initiate disciplinary action against any department employee who notifies or causes the notification to any unauthorized person of an unannounced survey of a residential facility by an authorized representative of the department.

(I) In addition to any other information which may be required of applicants for a license pursuant to this section, the director shall require each applicant to provide a copy of an approved plan for a proposed residential facility pursuant to section 5123.042 of the Revised Code. This division does not apply to renewal of a license or to an applicant for an initial or modified license who meets the requirements of section 5123.197 of the Revised Code.

(J)(1) A licensee shall notify the owner of the building in which the licensee's residential facility is located of any significant change in the identity of the licensee or management contractor before the effective date of the change if the licensee is not the owner of the building.

(2) Pursuant to rules, which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may require notification to the department of any significant change in the ownership of a residential facility or in the identity of the licensee or management contractor. If the director determines that a significant change of ownership is proposed, the director shall consider the proposed change to be an application for development by a new operator pursuant to section

5123.042 of the Revised Code and shall advise the applicant within sixty days of the notification that the current license shall continue in effect or a new license will be required pursuant to this section. If the director requires a new license, the director shall permit the facility to continue to operate under the current license until the new license is issued, unless the current license is revoked, refused to be renewed, or terminated in accordance with Chapter 119. of the Revised Code.

(3) A licensee shall transfer to the new licensee or management contractor all records related to the residents of the facility following any significant change in the identity of the licensee or management contractor.

(K) A county board of developmental disabilities and any interested person may file complaints alleging violations of statute or department rule relating to residential facilities with the department. All complaints shall state the facts constituting the basis of the allegation. The department shall not reveal the source of any complaint unless the complainant agrees in writing to waive the right to confidentiality or until so ordered by a court of competent jurisdiction.

The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for the receipt, referral, investigation, and disposition of complaints filed with the department under this division.

(L) Before issuing a license under this section to a residential facility that will accommodate at any time more than one individual with a developmental disability, the director shall, by first class mail, notify the following:

(1) If the facility will be located in a municipal corporation, the clerk of the legislative authority of the municipal corporation;

(2) If the facility will be located in unincorporated territory, the clerk of the appropriate board of county commissioners and the fiscal officer of the appropriate board of township trustees.

The director shall not issue the license for ten days after mailing the notice, excluding Saturdays, Sundays, and legal holidays, in order to give the notified local officials time in which to comment on the proposed issuance.

Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director mailed the notice, excluding Saturdays, Sundays, and legal holidays. If the director receives written comments from any notified officials within the specified time, the director shall make written findings concerning the comments and the director's decision on the issuance of the license. If the director does not receive written comments from any notified local officials within the specified time, the director shall continue the process for issuance of the license.

(M) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least six but not more than eight individuals with developmental disabilities as a permitted use in any residential district or zone, including any single-family residential district or zone, of any political subdivision. These residential facilities may be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone.

(N) Any person may operate a licensed residential facility that provides room and board,

personal care, habilitation services, and supervision in a family setting for at least nine but not more than sixteen individuals with developmental disabilities as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned unit development districts may exclude these residential facilities from those districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate these residential facilities in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(1) Require the architectural design and site layout of the residential facility and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(2) Require compliance with yard, parking, and sign regulation;

(3) Limit excessive concentration of these residential facilities.

(O) This section does not prohibit a political subdivision from applying to residential facilities nondiscriminatory regulations requiring compliance with health, fire, and safety regulations and building standards and regulations.

(P) Divisions (M) and (N) of this section are not applicable to municipal corporations that had in effect on June 15, 1977, an ordinance specifically permitting in residential zones licensed residential facilities by means of permitted uses, conditional uses, or special exception, so long as such ordinance remains in effect without any substantive modification.

(Q)(1) The director may issue an interim license to operate a residential facility to an applicant for a license under this section if either of the following is the case:

(a) The director determines that an emergency exists requiring immediate placement of individuals in a residential facility, that insufficient licensed beds are available, and that the residential facility is likely to receive a permanent license under this section within thirty days after issuance of the interim license.

(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility.

(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license.

(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred eighty days.

(4) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the issuance of interim licenses.

(R) Notwithstanding rules adopted pursuant to this section establishing the maximum number of individuals who may be served in a particular type of residential facility, a residential facility shall be permitted to serve the same number of individuals being served by the facility on the effective date of the rules or the number of individuals for which the facility is authorized pursuant to a current application for a certificate of need with a letter of support from the department of developmental disabilities and which is in the review process prior to April 4, 1986.

This division does not preclude the department from suspending new admissions to a

residential facility pursuant to a written order issued under section 5124.70 of the Revised Code.

(S) The director may enter at any time, for purposes of investigation, any home, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is being operated as a residential facility without a license issued under this section.

The director may petition the court of common pleas of the county in which an unlicensed residential facility is located for an order enjoining the person or governmental agency operating the facility from continuing to operate without a license. The court may grant the injunction on a showing that the person or governmental agency named in the petition is operating a residential facility without a license. The court may grant the injunction, regardless of whether the residential facility meets the requirements for receiving a license under this section.

**Sec. 5123.196.** (A) Except as provided in division (E) of this section, the director of developmental disabilities shall not issue a license under section 5123.19 of the Revised Code on or after July 1, 2003, if issuance will result in there being more beds in all residential facilities licensed under that section than is permitted under division (B) of this section.

(B) The maximum number of beds for the purpose of division (A) of this section shall not exceed ten thousand eight hundred thirty-eight minus, except as provided in division (C) of this section, both of the following:

(1) The number of such beds that cease to be residential facility beds on or after July 1, 2003, because a residential facility license is revoked, terminated, or not renewed for any reason or is surrendered in accordance with section 5123.19 of the Revised Code;

(2) The number of such beds for which a licensee voluntarily converts to use for supported living on or after July 1, 2003.

(C) The director is not required to reduce the maximum number of beds pursuant to division (B) of this section by a bed that ceases to be a residential facility bed if the director determines that the bed is needed to provide services to an individual with a developmental disability who resided in the residential facility in which the bed was located.

(D) The director shall maintain an up-to-date written record of the maximum number of residential facility beds provided for by division (B) of this section.

(E) The director may issue an interim license under division (Q) of section 5123.19 of the Revised Code and issue, pursuant to rules adopted under division (G)(9) of that section, a waiver allowing a residential facility to admit more residents than the facility is licensed to admit regardless of whether the interim license or waiver will result in there being more beds in all residential facilities licensed under that section than is permitted under division (B) of this section.

**Sec. 5123.198.** (A) As used in this section, "date of the commitment" means the date that an individual specified in division (B) of this section begins to reside in a state-operated ICF/IID after being committed to the ICF/IID pursuant to sections 5123.71 to 5123.76 of the Revised Code.

(B) Except as provided in division (C) of this section, whenever a resident of a residential facility is committed to a state-operated ICF/IID pursuant to sections 5123.71 to 5123.76 of the Revised Code, the department of developmental disabilities, pursuant to an adjudication order issued in accordance with Chapter 119. of the Revised Code, shall reduce by one the number of residents for which the residential facility in which the resident resided is licensed.

(C) The department shall not reduce under division (B) of this section the number of residents

for which a residential facility is licensed if any of the following are the case:

(1) The resident of the residential facility who is committed to a state-operated ICF/IID resided in the residential facility because of the closure, on or after June 26, 2003, of another state-operated ICF/IID;

(2) The residential facility admits within ninety days of the date of the commitment an individual who resides on the date of the commitment in a state-operated ICF/IID or another residential facility;

(3) The department fails to do either of the following within ninety days of the date of the commitment:

(a) Identify an individual to whom all of the following applies:

(i) Resides on the date of the commitment in a state-operated ICF/IID or another residential facility;

(ii) Has indicated to the department an interest in relocating to the residential facility or has a parent or guardian who has indicated to the department an interest for the individual to relocate to the residential facility;

(iii) The department determines the individual has needs that the residential facility can meet.

(b) Provide the residential facility with information about the individual identified under division (C)(2)(a) of this section that the residential facility needs in order to determine whether the facility can meet the individual's needs.

(4) If the department completes the actions specified in divisions (C)(3)(a) and (b) of this section not later than ninety days after the date of the commitment and except as provided in division (D) of this section, the residential facility does all of the following not later than ninety days after the date of the commitment:

(a) Evaluates the information provided by the department;

(b) Assesses the identified individual's needs;

(c) Determines that the residential facility cannot meet the identified individual's needs.

(5) If the department completes the actions specified in divisions (C)(3)(a) and (b) of this section not later than ninety days after the date of the commitment and the residential facility determines that the residential facility can meet the identified individual's needs, the individual, or a parent or guardian of the individual, refuses placement in the residential facility.

(D) The department may reduce under division (B) of this section the number of residents for which a residential facility is licensed even though the residential facility completes the actions specified in division (C)(4) of this section not later than ninety days after the date of the commitment if all of the following are the case:

(1) The department disagrees with the residential facility's determination that the residential facility cannot meet the identified individual's needs.

(2) The department issues a written decision pursuant to the uniform procedures for admissions, transfers, and discharges established by rules adopted under division (G)(7) of section 5123.19 of the Revised Code that the residential facility should admit the identified individual.

(3) After the department issues the written decision specified in division (D)(2) of this section, the residential facility refuses to admit the identified individual.

(E) A residential facility that admits, refuses to admit, transfers, or discharges a resident under

this section shall comply with the uniform procedures for admissions, transfers, and discharges established by rules adopted under division (G)(7) of section 5123.19 of the Revised Code.

**Sec. 5123.376.**

**Sec. 5123.621.**

**Sec. 5123.86.** (A) Except as provided in divisions (C), (D), and (E) of this section, the chief medical officer shall provide all information, including expected physical and medical consequences, necessary to enable any resident of an institution for persons with intellectual disabilities to give a fully informed, intelligent, and knowing consent if any of the following procedures are proposed:

- (1) Surgery;
- (2) Sterilization;
- (3) Experimental procedures.

(B) No resident shall be subjected to sterilization without the resident's informed consent.

(C) If a resident is physically or mentally unable to receive the information required for surgery or an experimental procedure under division (A) of this section, or has been adjudicated incompetent, the information may be provided to the resident's natural or court-appointed guardian, including an agency providing guardianship services under contract with the department of developmental disabilities under sections 5123.55 to 5123.59 of the Revised Code. The guardian may give the informed, intelligent, and knowing written consent for surgery or the experimental procedure.

If a resident is physically or mentally unable to receive the information required for surgery or an experimental procedure under division (A) of this section and has no guardian, then the information, the recommendation of the chief medical officer, and the concurring judgment of a licensed physician who is not a full-time employee of the state may be provided to the court in the county in which the institution is located. The court may approve the surgery or experimental procedure. Before approving the surgery or experimental procedure, the court shall notify the Ohio protection and advocacy system created by section 5123.60 of the Revised Code, and shall notify the resident of the resident's rights to consult with counsel, to have counsel appointed by the court if the resident is indigent, and to contest the recommendation of the chief medical officer.

(D) If, in the judgment of two licensed physicians, delay in obtaining consent for surgery would create a grave danger to the health of a resident, emergency surgery may be performed without the consent of the resident if the necessary information is provided to the resident's guardian, including an agency providing guardianship services under contract with the department of developmental disabilities under sections 5123.55 to 5123.59 of the Revised Code, or to the resident's spouse or next of kin to enable that person or agency to give an informed, intelligent, and knowing written consent.

If the guardian, spouse, or next of kin cannot be contacted through exercise of reasonable diligence, or if the guardian, spouse, or next of kin is contacted, but refuses to consent, then the emergency surgery may be performed upon the written authorization of the chief medical officer and after court approval has been obtained. However, if delay in obtaining court approval would create a grave danger to the life of the resident, the chief medical officer may authorize surgery, in writing, without court approval. If the surgery is authorized without court approval, the chief medical officer who made the authorization and the physician who performed the surgery shall each execute an

affidavit describing the circumstances constituting the emergency and warranting the surgery and the circumstances warranting their not obtaining prior court approval. The affidavit shall be filed with the court with which the request for prior approval would have been filed within five court days after the surgery, and a copy of the affidavit shall be placed in the resident's file and shall be given to the guardian, spouse, or next of kin of the resident, to the hospital at which the surgery was performed, and to the Ohio protection and advocacy system created by section 5123.60 of the Revised Code.

(E) This chapter does not authorize any form of compulsory medical or psychiatric treatment of any resident who is being treated by spiritual means through prayer alone in accordance with a recognized religious method of healing.

**Sec. 5124.101.** (A) The provider of an ICF/IID in peer group 1-A, peer group 2-A, peer group 3-A, peer group 4-A, peer group 1-B, or peer group 2-B that becomes a downsized ICF/IID or partially converted ICF/IID on or after July 1, 2013, or becomes a new ICF/IID on or after that date, may file with the department of developmental disabilities a cost report covering the period specified in division (B) of this section if the following applies to the ICF/IID:

(1) In the case of an ICF/IID that becomes a downsized ICF/IID or partially converted ICF/IID, the ICF/IID has either of the following on the day it becomes a downsized ICF/IID or partially converted ICF/IID:

(a) A medicaid-certified capacity that is at least ten per cent less than its medicaid-certified capacity on the day immediately preceding the day it becomes a downsized ICF/IID or partially converted ICF/IID;

(b) At least five fewer beds certified as ICF/IID beds than it has on the day immediately preceding the day it becomes a downsized ICF/IID or partially converted ICF/IID.

(2) In the case of a new ICF/IID, the ICF/IID's beds are from a downsized ICF/IID and the downsized ICF/IID has either of the following on the day it becomes a downsized ICF/IID:

(a) A medicaid-certified capacity that is at least ten per cent less than its medicaid-certified capacity on the day immediately preceding the day it becomes a downsized ICF/IID;

(b) At least five fewer beds certified as ICF/IID beds than it has on the day immediately preceding the day it becomes a downsized ICF/IID.

(B) A cost report filed under division (A) of this section shall cover the period that begins and ends as follows:

(1) In the case of an ICF/IID that becomes a downsized ICF/IID or partially converted ICF/IID:

(a) The period begins with the day that the ICF/IID becomes a downsized ICF/IID or partially converted ICF/IID.

(b) The period ends on the last day of the last month of the first three full months of operation as a downsized ICF/IID or partially converted ICF/IID.

(2) In the case of a new ICF/IID:

(a) The period begins with the day that the provider agreement for the ICF/IID takes effect.

(b) The period ends on the last day of the last month of the first three full months that the provider agreement is in effect.

(C)(1) If the department accepts a cost report filed under division (A) of this section for an ICF/IID that becomes a downsized ICF/IID or partially converted ICF/IID on or before the first day



of October of a calendar year, the provider also shall do both of the following:

(a) File with the department a cost report for the ICF/IID in accordance with division (A) of section 5124.10 of the Revised Code;

(b) File with the department another cost report for the ICF/IID that covers the portion of the initial calendar year that the ICF/IID operated as a downsized ICF/IID or partially converted ICF/IID.

(2) If the department accepts a cost report filed under division (A) of this section for an ICF/IID that becomes a downsized ICF/IID or partially converted ICF/IID after the first day of October of a calendar year, the provider is not required to file a cost report that covers that calendar year in accordance with division (A) of section 5124.10 of the Revised Code. Instead, the provider shall file a cost report for the ICF/IID in accordance with division (A) of section 5124.10 of the Revised Code covering the immediately following calendar year.

(3) If the department accepts a cost report filed under division (A) of this section for a new ICF/IID that has a provider agreement that takes effect on or before the first day of October of a calendar year, the provider also shall file a cost report for the ICF/IID in accordance with division (A) of section 5124.10 of the Revised Code covering the portion of that calendar year that the provider agreement was in effect.

(4) If the department accepts a cost report filed under division (A) of this section for a new ICF/IID that has a provider agreement that takes effect after the first day of October of a calendar year, the provider is not required to file a cost report that covers that calendar year in accordance with division (A) of section 5124.10 of the Revised Code. The provider shall file a cost report for the ICF/IID in accordance with division (A) of section 5124.10 of the Revised Code covering the immediately following calendar year.

(D) The department shall refuse to accept a cost report filed under division (A) or (C)(1)(b) of this section if either of the following apply:

(1) Except as provided in division (E) of section 5124.10 of the Revised Code, the provider fails to file the cost report with the department not later than ninety days after the last day of the period the cost report covers;

(2) The cost report is incomplete or inadequate.

(E) If the department accepts a cost report filed under division (A) or (C)(1)(b) of this section, the department shall use that cost report, rather than the cost report that otherwise would be used pursuant to section 5124.17, 5124.171, 5124.19, 5124.195, 5124.21, 5124.211, 5124.23, or 5124.231 of the Revised Code, to determine the ICF/IID's medicaid payment rate in accordance with this chapter for ICF/IID services the ICF/IID provides during the period that begins and ends as follows:

(1) For a cost report filed under division (A) of this section, the period begins on the following:

(a) In the case of an ICF/IID that becomes a downsized ICF/IID or partially converted ICF/IID:

(i) The day that the ICF/IID becomes a downsized ICF/IID or partially converted ICF/IID if that day is the first day of a month;

(ii) The first day of the month immediately following the month that the ICF/IID becomes a downsized ICF/IID or partially converted ICF/IID if division (E)(1)(a)(i) of this section does not

apply.

(b) In the case of a new ICF/IID, the day that the ICF/IID's provider agreement takes effect.

(2) For a cost report filed under division (A) of this section, the period ends on the following:

(a) In the case of an ICF/IID that becomes a downsized ICF/IID or partially converted ICF/IID:

(i) The last day of the fiscal year that immediately precedes the fiscal year for which the ICF/IID is paid a rate determined using a cost report filed under division (C)(1)(b) of this section if the ICF/IID became a downsized ICF/IID or partially converted ICF/IID on or before the first day of October of a calendar year;

(ii) The last day of the fiscal year that immediately precedes the fiscal year for which the ICF/IID begins to be paid a rate determined using a cost report that division (C)(2) of this section requires be filed in accordance with division (A) of section 5124.10 of the Revised Code if the ICF/IID became a downsized ICF/IID or partially converted ICF/IID after the first day of October of a calendar year.

(b) In the case of a new ICF/IID, the last day of the fiscal year that immediately precedes the fiscal year for which the ICF/IID begins to be paid a rate determined using a cost report that division (C)(3) or (4) of this section requires be filed in accordance with division (A) of section 5124.10 of the Revised Code.

(3) For a cost report filed under division (C)(1)(b) of this section, the period begins on the day immediately following the day specified in division (E)(2)(a)(i) of this section.

(4) For a cost report filed under division (C)(1)(b) of this section, the period ends on the last day of the fiscal year that immediately precedes the fiscal year for which the ICF/IID begins to be paid a rate determined using the cost report filed with the department in accordance with division (A) of section 5124.10 of the Revised Code that covers the calendar year that immediately follows the initial calendar year that the ICF/IID operated as a downsized ICF/IID or partially converted ICF/IID.

(F) If the department accepts a cost report filed under division (A) or (C)(1)(b) of this section by the provider of a downsized ICF/IID or partially converted ICF/IID, the following modifications shall be made for the purpose of determining the medicaid payment rate for ICF/IID services the ICF/IID provides during the period specified in division (E) of this section:

(1) In place of the quarterly case-mix score otherwise used in determining the ICF/IID's per medicaid day direct care costs component rate under division (A) of section 5124.19 of the Revised Code, the ICF/IID's case-mix score in effect on the last day of the calendar quarter that ends during the period the cost report covers (or, if more than one calendar quarter ends during that period, the last of those calendar quarters) shall be used to determine the ICF/IID's per medicaid day direct care costs component rate.

(2) In place of the annual average case-mix score otherwise used in determining the ICF/IID's per medicaid day payment rate for direct care costs under division (A) of section 5124.195 of the Revised Code, the ICF/IID's case-mix score in effect on the last day of the calendar quarter that ends during the period the cost report covers (or, if more than one calendar quarter ends during that period, the last of those calendar quarters) shall be used to determine the ICF/IID's per medicaid day payment rate for direct care costs.

(3) The ICF/IID shall not be subject to the limit on the costs of ownership per diem payment

rate specified in divisions (B) and (C) of section 5124.171 of the Revised Code.

(4) The ICF/IID shall not be subject to the limit on the payment rate for per diem capitalized costs of nonextensive renovations specified in division (E)(1) of section 5124.171 of the Revised Code.

(5) The ICF/IID shall be subject to the limit on the total payment rate for costs of ownership, capitalized costs of nonextensive renovations, and the efficiency incentive specified in division (H) of section 5124.171 of the Revised Code regardless of whether the ICF/IID is in peer group 1-B or peer group 2-B.

**Sec. 5124.15.** (A) Except as otherwise provided by section 5124.101 of the Revised Code, sections 5124.151 to 5124.154 of the Revised Code, and divisions (D) and (E) of this section, the total per medicaid day payment rate that the department of developmental disabilities shall pay to an ICF/IID provider for ICF/IID services the provider's ICF/IID provides during a fiscal year shall equal the following:

(1) Until July 1, 2021, the greater of the total per medicaid day payment rates determined under divisions (B) and (C) of this section;

(2) Beginning July 1, 2021, the total per medicaid day payment rate determined under division (B) of this section.

(B) The total per medicaid day payment rate determined under this division is the sum of all of the following:

(1) The per medicaid day capital component rate determined for the ICF/IID under section 5124.17 of the Revised Code;

(2) The per medicaid day direct care costs component rate determined for the ICF/IID under section 5124.19 of the Revised Code;

(3) The per medicaid day indirect care costs component rate determined for the ICF/IID under section 5124.21 of the Revised Code;

(4) The per medicaid day other protected costs component rate determined for the ICF/IID under section 5124.23 of the Revised Code;

(5) Until July 1, 2020, a direct support personnel payment equal to three and four-hundredths per cent of the ICF/IID's desk-reviewed, actual, allowable, per medicaid day direct care costs from the applicable cost report year;

(6) Beginning July 1, 2020, the per medicaid day quality incentive payment determined for the ICF/IID under section 5124.24 of the Revised Code.

(C) The total per medicaid day payment rate determined under this division is the sum of all of the following:

(1) The per medicaid day payment rate for capital costs determined for the ICF/IID under section 5124.171 of the Revised Code;

(2) The per medicaid day payment rate for direct care costs determined for the ICF/IID under section 5124.195 of the Revised Code;

(3) The per medicaid day payment rate for indirect care costs determined for the ICF/IID under section 5124.211 of the Revised Code;

(4) The per medicaid day payment rate for other protected costs determined for the ICF/IID under section 5124.231 of the Revised Code;

(5) A direct support personnel payment equal to three and four-hundredths per cent of the ICF/IID's desk-reviewed, actual, allowable, per medicaid day direct care costs from the applicable cost report year.

(D) The total per medicaid day payment rate for the following shall not exceed the average total per medicaid day payment rate in effect on July 1, 2013, for developmental centers:

(1) An ICF/IID that is in peer group 5-A for the purpose of the total per medicaid day payment rate determined under division (B) of this section;

(2) An ICF/IID that is in peer group 3-B for the purpose of the total per medicaid day payment rate determined under division (C) of this section.

(E) The department shall adjust the total per medicaid day payment rate otherwise determined for an ICF/IID under divisions (B) and (C) of this section as directed by the general assembly through the enactment of law governing medicaid payments to ICF/IID providers.

(F) In addition to paying an ICF/IID provider the total per medicaid day payment rate determined for the provider's ICF/IID under divisions (B), (C), (D), and (E) of this section for a fiscal year, the department, in accordance with section 5124.25 of the Revised Code, may pay the provider a rate add-on for ventilator-dependent outlier ICF/IID services if the rate add-on is to be paid under that section and the department approves the provider's application for the rate add-on. The rate add-on is not to be part of the ICF/IID's total per medicaid day payment rate.

**Sec. 5124.155.**

**Sec. 5124.33.** No medicaid payment shall be made to an ICF/IID provider for the day a medicaid recipient is discharged from the ICF/IID, unless the recipient is discharged from the ICF/IID because all of the beds in the ICF/IID are converted from providing ICF/IID services to providing home and community-based services pursuant to section 5124.60 or 5124.61 of the Revised Code.

**Sec. 5124.60.** (A) For the purpose of increasing the number of slots available for home and community-based services, the operator of an ICF/IID may convert some or all of the beds in the ICF/IID from providing ICF/IID services to providing home and community-based services if all of the following requirements are met:

(1) The operator provides the directors of health and developmental disabilities at least ninety days' notice of the operator's intent to make the conversion.

(2) The operator complies with the requirements of sections 5124.50 to 5124.53 of the Revised Code regarding a voluntary termination if those requirements are applicable.

(3) If the operator intends to convert all of the ICF/IID's beds, the operator notifies each of the ICF/IID's residents that the ICF/IID is to cease providing ICF/IID services and inform each resident that the resident may do either of the following:

(a) Continue to receive ICF/IID services by transferring to another ICF/IID that is willing and able to accept the resident if the resident continues to qualify for ICF/IID services;

(b) Begin to receive home and community-based services instead of ICF/IID services from any provider of home and community-based services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident.

(4) If the operator intends to convert some but not all of the ICF/IID's beds, the operator

notifies each of the ICF/IID's residents that the ICF/IID is to convert some of its beds from providing ICF/IID services to providing home and community-based services and inform each resident that the resident may do either of the following:

(a) Continue to receive ICF/IID services from any ICF/IID that is willing and able to provide the services to the resident if the resident continues to qualify for ICF/IID services;

(b) Begin to receive home and community-based services instead of ICF/IID services from any provider of home and community-based services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident.

(5) The operator meets the requirements for providing home and community-based services, including the following:

(a) Such requirements applicable to a residential facility if the operator maintains the facility's license as a residential facility;

(b) Such requirements applicable to a facility that is not licensed as a residential facility if the operator surrenders the facility's license as a residential facility under section 5123.19 of the Revised Code.

(6) The director of developmental disabilities approves the conversion.

(B) A decision by the director of developmental disabilities to approve or refuse to approve a proposed conversion of beds is final. In making a decision, the director shall consider all of the following:

(1) The fiscal impact on the ICF/IID if some but not all of the beds are converted;

(2) The fiscal impact on the medicaid program;

(3) The availability of home and community-based services.

(C) The notice provided to the directors under division (A)(1) of this section shall specify whether some or all of the ICF/IID's beds are to be converted. If some but not all of the beds are to be converted, the notice shall specify how many of the ICF/IID's beds are to be converted and how many of the beds are to continue to provide ICF/IID services. The notice to the director of developmental disabilities shall specify whether the operator wishes to surrender the ICF/IID's license as a residential facility under section 5123.19 of the Revised Code.

(D)(1) If the director of developmental disabilities approves a conversion under division (B) of this section, the director of health shall do the following:

(a) Terminate the ICF/IID's medicaid certification if the notice specifies that all of the ICF/IID's beds are to be converted;

(b) Reduce the ICF/IID's medicaid-certified capacity by the number of beds being converted if the notice specifies that some but not all of the beds are to be converted.

(2) The director of health shall notify the medicaid director of the termination or reduction.

On receipt of the notice, the medicaid director shall do the following:

(a) Terminate the operator's medicaid provider agreement that authorizes the operator to provide ICF/IID services at the ICF/IID if the ICF/IID's certification was terminated;

(b) Amend the operator's medicaid provider agreement to reflect the ICF/IID's reduced medicaid-certified capacity if the ICF/IID's medicaid-certified capacity is reduced.

(3) The medicaid director is not required to conduct an adjudication in accordance with

Chapter 119. of the Revised Code when taking action under division (D)(2) of this section.

**Sec. 5124.61.** (A) For the purpose of increasing the number of slots available for home and community-based services, a person who acquires, through a request for proposals issued by the director of developmental disabilities, an ICF/IID for which a residential facility license was previously surrendered or revoked may convert some or all of the ICF/IID's beds from providing ICF/IID services to providing home and community-based services if all of the following requirements are met:

(1) The person provides the directors of health and developmental disabilities and medicaid director at least ninety days' notice of the person's intent to make the conversion.

(2) The person complies with the requirements of sections 5124.50 to 5124.53 of the Revised Code regarding a voluntary termination if those requirements are applicable.

(3) If the person intends to convert all of the ICF/IID's beds, the person notifies each of the ICF/IID's residents that the ICF/IID is to cease providing ICF/IID services and informs each resident that the resident may do either of the following:

(a) Continue to receive ICF/IID services by transferring to another ICF/IID willing and able to accept the resident if the resident continues to qualify for ICF/IID services;

(b) Begin to receive home and community-based services instead of ICF/IID services from any provider of home and community-based services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident.

(4) If the person intends to convert some but not all of the ICF/IID's beds, the person notifies each of the ICF/IID's residents that the ICF/IID is to convert some of its beds from providing ICF/IID services to providing home and community-based services and inform each resident that the resident may do either of the following:

(a) Continue to receive ICF/IID services from any that is willing and able to provide the services to the resident if the resident continues to qualify for ICF/IID services;

(b) Begin to receive home and community-based services instead of ICF/IID services from any provider of home and community-based services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident.

(5) The person meets the requirements for providing home and community-based services at a residential facility.

(B) The notice provided to the directors under division (A)(1) of this section shall specify whether some or all of the ICF/IID's beds are to be converted. If some but not all of the beds are to be converted, the notice shall specify how many of the ICF/IID's beds are to be converted and how many of the beds are to continue to provide ICF/IID services.

(C) On receipt of a notice under division (A)(1) of this section, the director of health shall do the following:

(1) Terminate the ICF/IID's medicaid certification if the notice specifies that all of the facility's beds are to be converted;

(2) Reduce the ICF/IID's medicaid-certified capacity by the number of beds being converted if the notice specifies that some but not all of the beds are to be converted.

(D) The director of health shall notify the medicaid director of the termination or reduction under division (C) of this section. On receipt of the director of health's notice, the medicaid director shall do the following:

(1) Terminate the person's medicaid provider agreement that authorizes the person to provide ICF/IID services at the ICF/IID if the ICF/IID's medicaid certification was terminated;

(2) Amend the person's medicaid provider agreement to reflect the ICF/IID's reduced medicaid-certified capacity if the ICF/IID's medicaid-certified capacity is reduced.

The medicaid director is not required to conduct an adjudication in accordance with Chapter 119. of the Revised Code when taking action under division (D)(1) or (2) of this section.

**Sec. 5124.67.** (A)(1) The department of developmental disabilities shall strive to achieve, not later than July 1, 2018, the following statewide reductions in ICF/IID beds:

(a) At least five hundred beds in ICFs/IID that, before becoming downsized ICFs/IID, have sixteen or more beds;

(b) At least five hundred beds in ICFs/IID with any number of beds that convert some or all of their beds from providing ICF/IID services to providing home and community-based services pursuant to section 5124.60 or 5124.61 of the Revised Code.

(2) The department shall strive to achieve a reduction of at least one thousand two hundred ICF/IID beds through a combination of the methods specified in divisions (A)(1)(a) and (b) of this section.

(3) The department shall strive to achieve the reductions specified in division (A)(1)(b) of this section in accordance with the following interim time frames:

(a) At least two hundred twenty-five ICF/IID beds converted by June 30, 2016;

(b) At least one hundred twenty-five additional ICF/IID beds converted by June 30, 2017, for a total of at least three hundred fifty beds converted by that date.

(B) In its efforts to achieve the reductions under division (A) of this section, the department shall collaborate with the Ohio association of county boards serving people with developmental disabilities, the Ohio provider resource association, the Ohio centers for intellectual disabilities formed by the Ohio health care association, and the values and faith alliance. The collaboration efforts may include the following:

(1) Identifying ICFs/IID that may reduce the number of their beds to help achieve the reductions under division (A) of this section;

(2) Encouraging ICF/IID providers to reduce the number of their ICFs/IID's beds;

(3) Creating incentives for, and removing impediments to, the reductions;

(4) In the case of ICF/IID beds that are converted to providing home and community-based services, developing a mechanism to compensate providers for beds that permanently cease to provide ICF/IID services.

(C) The department shall meet not less than twice each year with the organizations specified in division (B) of this section to do all of the following:

(1) Review the progress being made in achieving the reductions under division (A) of this section;

(2) Prepare written reports on the progress;

(3) Identify additional measures needed to achieve the reductions.

**Sec. 5124.68.****Sec. 5124.69.****Sec. 5124.70.**

**Sec. 5126.042.** (A) As used in this section, "~~Department~~ department of developmental disabilities-administered medicaid waiver component" means a medicaid waiver component administered by the department of developmental disabilities pursuant to section 5166.21 of the Revised Code.

(B) If a county board of developmental disabilities determines that available resources are not sufficient to meet the needs of all individuals who request non-medicaid programs or services, it shall establish one or more waiting lists for the non-medicaid programs or services in accordance with its plan developed under section 5126.04 of the Revised Code. The board may establish priorities for making placements on its waiting lists established under this division. Any such priorities shall be consistent with the board's plan and applicable law.

(C) If a county board determines that available resources are insufficient to enroll in department of developmental disabilities-administered medicaid waiver components all individuals who are assessed as needing home and community-based services, it shall establish a waiting list for the services in accordance with rules adopted under this section.

(D) The director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing a county board's waiting list established under division (C) of this section, including rules that establish all of the following:

(1) Procedures a county board is to follow to transition individuals from a waiting list the county board established under division (C) of this section ~~before the effective date of this amendment~~ September 29, 2017, to the waiting list the county board establishes under that division after that date;

(2) Procedures by which a county board is to ensure that the due process rights of individuals placed on the county board's waiting list are observed;

(3) Criteria a county board is to use to determine all of the following:

(a) An individual's eligibility to be placed on the county board's waiting list;

(b) The date an individual was assessed as needing home and community-based services;

(c) The order in which individuals on the county board's waiting list are to be offered enrollment in a department of developmental disabilities-administered medicaid waiver component;

(d) The department of developmental disabilities-administered medicaid waiver component in which an individual on the county board's waiting list is to be offered enrollment.

(4) Grounds for removing an individual from the county board's waiting list.

(E) The director shall consult with all of the following when adopting rules under division (D) of this section:

(1) Individuals with developmental disabilities;

(2) Associations representing individuals with developmental disabilities and the families of such individuals;

(3) Associations representing providers of services to individuals with developmental disabilities;

(4) The Ohio association of county boards serving people with developmental disabilities.



(F) The following shall take precedence over the applicable provisions of this section:

(1) Medicaid rules and regulations;

(2) Any specific requirements that may be contained within a medicaid state plan amendment or department of disabilities-administered medicaid waiver component with respect to which a county board has authority to provide services, programs, or supports.

**Sec. 5126.0510.** (A) Except as otherwise provided in an agreement entered into under section 5123.048 of the Revised Code and subject to divisions (B), (C), (D), and (E) of this section, a county board of developmental disabilities shall pay the nonfederal share of medicaid expenditures for the following home and community-based services provided to an individual with a developmental disability who the county board determines under section 5126.041 of the Revised Code is eligible for county board services:

(1) Home and community-based services provided by the county board to such an individual;

(2) Home and community-based services provided by a provider other than the county board to such an individual who is enrolled as of June 30, 2007, in the medicaid waiver component under which the services are provided;

(3) Home and community-based services provided by a provider other than the county board to such an individual who, pursuant to a request the county board makes, enrolls in the medicaid waiver component under which the services are provided after June 30, 2007;

(4) Home and community-based services provided by a provider other than the county board to such an individual for whom there is in effect an agreement entered into under division (F) of this section between the county board and director of developmental disabilities.

(B) In the case of medicaid expenditures for home and community-based services for which division (A)(2) of this section requires a county board to pay the nonfederal share, the following shall apply to such services provided during fiscal year 2008 under the individual options medicaid waiver component:

(1) The county board shall pay no less than the total amount the county board paid as the nonfederal share for home and community-based services provided in fiscal year 2007 under the individual options medicaid waiver component;

(2) The county board shall pay no more than the sum of the following:

(a) The total amount the county board paid as the nonfederal share for home and community-based services provided in fiscal year 2007 under the individual options medicaid waiver component;

(b) An amount equal to one per cent of the total amount the department of developmental disabilities and county board paid as the nonfederal share for home and community-based services provided in fiscal year 2007 under the individual options medicaid waiver component to individuals the county board determined under section 5126.041 of the Revised Code are eligible for county board services.

(C) A county board is not required to pay the nonfederal share of home and community-based services provided after June 30, 2008, that the county board is otherwise required by division (A)(2) of this section to pay if the department of developmental disabilities fails to comply with division (A) of section 5123.0416 of the Revised Code.

(D) A county board is not required to pay the nonfederal share of home and community-based services that the county board is otherwise required by division (A)(3) of this section to pay if both of

the following apply:

(1) The services are provided to an individual who enrolls in the medicaid waiver component under which the services are provided as the result of an order issued following an appeal made under section 5160.31 of the Revised Code or an appeal of the order to a court of common pleas;

(2) There are more individuals who are eligible for services from the county board enrolled in home and community-based services than is required by section 5126.0512 of the Revised Code.

(E) A county board is not required to pay the nonfederal share of home and community-based services that the county board is otherwise required by division (A) of this section to pay if the services are provided to an individual who enrolls, pursuant to division (D) of section 5124.69 of the Revised Code, in the medicaid waiver component under which the services are provided.

(F) A county board may enter into an agreement with the director of developmental disabilities under which the county board agrees to pay the nonfederal share of medicaid expenditures for one or more home and community-based services that the county board is not otherwise required by division (A)(1), (2), or (3) of this section to pay and that are provided to an individual the county board determines under section 5126.041 of the Revised Code is eligible for county board services. The agreement shall specify which home and community-based services the agreement covers. The county board shall pay the nonfederal share of medicaid expenditures for the home and community-based services that the agreement covers as long as the agreement is in effect.

**Sec. 5126.15.** (A) A county board of developmental disabilities shall provide service and support administration to each individual three years of age or older who is eligible for service and support administration if the individual requests, or a person on the individual's behalf requests, service and support administration. A board shall provide service and support administration to each individual receiving home and community-based services. A board may provide, in accordance with the service coordination requirements of 34 C.F.R. 303.23, service and support administration to an individual under three years of age eligible for early intervention services under 34 C.F.R. part 303. A board may provide service and support administration to an individual who is not eligible for other services of the board. Service and support administration shall be provided in accordance with rules adopted under section 5126.08 of the Revised Code.

A board may provide service and support administration by directly employing service and support administrators or by contracting with entities for the performance of service and support administration. Individuals employed or under contract as service and support administrators shall not be in the same collective bargaining unit as employees who perform duties that are not administrative.

A service and support administrator shall perform only the duties specified in division (B) of this section. While employed by or under contract with a board, a service and support administrator shall neither be employed by or serve in a decision-making or policy-making capacity for any other entity that provides programs or services to individuals with developmental disabilities nor provide programs or services to individuals with mental retardation or developmental disabilities through self-employment.

(B) A service and support administrator shall do all of the following:

(1) Establish an individual's eligibility for the services of the county board of developmental disabilities;

- (2) Assess individual needs for services;
- (3) Develop individual service plans with the active participation of the individual to be served, other persons selected by the individual, and, when applicable, the provider selected by the individual, and recommend the plans for approval by the department of developmental disabilities when services included in the plans are funded through medicaid;
- (4) Establish budgets for services based on the individual's assessed needs and preferred ways of meeting those needs;
- (5) Assist individuals in making selections from among the providers they have chosen;
- (6) Ensure that services are effectively coordinated and provided by appropriate providers;
- (7) Establish and implement an ongoing system of monitoring the implementation of individual service plans to achieve consistent implementation and the desired outcomes for the individual;
- (8) Perform quality assurance reviews as a distinct function of service and support administration;
- (9) Incorporate the results of quality assurance reviews and identified trends and patterns of unusual incidents and major unusual incidents into amendments of an individual's service plan for the purpose of improving and enhancing the quality and appropriateness of services rendered to the individual.

**Sec. 5126.201.** (A) A person may be employed by or under contract with a county board of developmental disabilities as a conditional status service and support administrator only if either of the following is true:

- (1) The person has at least an appropriate associate degree;
  - (2) The person meets both of the following requirements:
    - (a) The person was employed by the county board and performed service and support administration duties on June 30, 2005;
    - (b) The person holds a high school diploma or a certificate of high school equivalence.
- (B) A conditional status service and support administrator shall perform the duties of service and support administration, as specified in division (B) of section 5126.15 of the Revised Code, only under the supervision of a management employee who is a service and support administration supervisor.

**Sec. 5126.54.** An eligible organization that seeks a residential facility linked deposit loan to finance all or part of the development of a residential facility shall obtain approval of the proposed project from the county board of developmental disabilities of the county in which the facility will be developed. The application shall be in the form prescribed by the board and include all of the following:

- (A) The organization's name, business address, and telephone number;
- (B) The name of an officer or employee of the organization who may be contacted with regard to the application;
- (C) A description of the residential facility and a timetable showing the time at which each phase of its development is expected to be completed;
- (D) The amount of the loan to be applied for;
- (E) Any other information the board considers necessary to successfully review the

application.

Whoever knowingly makes a false statement on an application is guilty of the offense of falsification under section 2921.13 of the Revised Code.

**Sec. 5139.02.** (A)(1) As used in this section, "managing officer" means a deputy director, an assistant deputy director, a superintendent, a regional administrator, a deputy superintendent, or the superintendent of schools of the department of youth services, a member of the release authority, the chief of staff to the release authority, and the victims administrator of the office of victim services.

(2) Each division established by the director of youth services shall consist of managing officers and other employees, including those employed in institutions and regions as necessary to perform the functions assigned to them. The director or appropriate deputy director or managing officer of the department shall supervise the work of each division and determine general policies governing the exercise of powers vested in the department and assigned to each division. The appropriate managing officer or deputy director is responsible to the director for the organization, direction, and supervision of the work of the division or unit and for the exercise of the powers and the performance of the duties of the department assigned to it and, with the director's approval, may establish bureaus or other administrative units within the department.

(B) The director shall appoint all managing officers, who shall be in the unclassified civil service. The director may appoint a person who holds a certified position in the classified service within the department to a position as a managing officer within the department. A person appointed pursuant to this division to a position as a managing officer shall retain the right to resume the position and status held by the person in the classified service immediately prior to the person's appointment as managing officer, regardless of the number of positions the person held in the unclassified service. A managing officer's right to resume a position in the classified service may only be exercised when the director demotes the managing officer to a pay range lower than the managing officer's current pay range or revokes the managing officer's appointment to the position of managing officer. A person who holds a position in the classified service and who is appointed to the position of managing officer on or after January 1, 2016, shall have the right to resume a position in the classified service under this division only within five years after the effective date of the person's appointment as managing officer. A managing officer forfeits the right to resume a position in the classified service when the managing officer is removed from the position of managing officer due to incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of this chapter or Chapter 124. of the Revised Code, the rules of the director of youth services or the director of administrative services, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony while employed in the civil service. A managing officer also forfeits the right to resume a position in the classified service upon transfer to a different agency.

Reinstatement to a position in the classified service shall be to the position held in the classified service immediately prior to appointment as managing officer, or to another position certified by the director of administrative services as being substantially equal to that position. If the position the person previously held in the classified service immediately prior to appointment as a managing officer has been placed in the unclassified service or is otherwise unavailable, the person shall be appointed to a position in the classified service within the department that the director of

administrative services certifies is comparable in compensation to the position the person previously held in the classified service. Service as a managing officer shall be counted as service in the position in the classified service held by the person immediately prior to the person's appointment as a managing officer. If a person is reinstated to a position in the classified service under this division, the person shall be returned to the pay range and step to which the person had been assigned at the time of the appointment as managing officer. Longevity, where applicable, shall be calculated pursuant to the provisions of section 124.181 of the Revised Code.

(C) Each person appointed as a managing officer shall have received special training and shall have experience in the type of work that the person's division is required to perform. Each managing officer, under the supervision of the director, has entire charge of the division, institution, unit, or region for which the managing officer is appointed and, with the director's approval, shall appoint necessary employees and may remove them for cause.

(D) The director may designate one or more deputy directors to sign any personnel actions on the director's behalf. The director shall make a designation in a writing signed by the director, and the designation shall remain in effect until the director revokes or supersedes it with a new designation.

**Sec. 5139.03.** (A) The department of youth services shall control and manage all state institutions or facilities established or created for the training or rehabilitation of delinquent children committed to the department, except where the control and management of an institution or facility is vested by law in another agency. The department shall employ, in addition to other personnel authorized under Chapter 5139. of the Revised Code, sufficient personnel to maintain food service and buildings and grounds operations.

(B) The department of youth services shall, insofar as practicable, purchase foods and other commodities incident to food service operations from the department of mental health and addiction services. The department of youth services may enter into agreements with the department of mental health and addiction services providing for assistance and consultation in the construction of, or major modifications to, capital facilities of the department of youth services.

(C) The directors of mental health and addiction services and of youth services shall enter into written agreements to implement this section. Such directors may, from time to time, amend any agreements entered into under this section for the purposes of making more efficient use of personnel, taking advantage of economies in quantity purchasing, or for any other purpose which is mutually advantageous to both the department of youth services and the department of mental health and addiction services.

**Sec. 5139.50.** (A) The release authority of the department of youth services is hereby created as a bureau in the department. The release authority shall consist of a minimum of three, but not more than five, members who are appointed by the director of youth services and who have the qualifications specified in division (B) of this section. The members of the release authority shall devote their full time to the duties of the release authority and shall neither seek nor hold other public office. The members shall be in the unclassified civil service.

(B) A person appointed as a member of the release authority shall have a bachelor's degree from an accredited college or university or equivalent relevant experience and shall have the skills, training, or experience necessary to analyze issues of law, administration, and public policy. The membership of the release authority shall represent, insofar as practicable, the diversity found in the

children in the legal custody of the department of youth services.

In appointing the members, the director shall ensure that the appointments include all of the following:

(1) At least one member who has five or more years of experience in criminal justice, juvenile justice, or an equivalent relevant profession;

(2) At least one member who has experience in victim services or advocacy or who has been a victim of a crime or is a family member of a victim;

(3) At least one member who has experience in direct care services to delinquent children.

(C) Members shall be appointed for four-year terms. At the conclusion of a term, a member shall hold office until the appointment and qualification of the member's successor. The director shall fill a vacancy occurring before the expiration of a term for the remainder of that term and, if a member is on extended leave or disability status for more than thirty work days, may appoint an interim member to fulfill the duties of that member. A member may be reappointed. A member may be removed for good cause by the director.

(D) The director of youth services shall designate as chairperson of the release authority one of the members who has experience in criminal justice, juvenile justice, or an equivalent relevant profession. The chairperson shall be a managing officer of the department, shall supervise the members of the board and the other staff in the bureau, and shall perform all duties and functions necessary to ensure that the release authority discharges its responsibilities. The chairperson shall serve as the official spokesperson for the release authority.

(E) The release authority shall do all of the following:

(1) Serve as the final and sole authority for making decisions, in the interests of public safety and the children involved, regarding the release and discharge of all children committed to the legal custody of the department of youth services, except children placed by a juvenile court on judicial release to court supervision or on judicial release to department of youth services supervision, children who have not completed a prescribed minimum period of time or prescribed period of time in a secure facility, or children who are required to remain in a secure facility until they attain twenty-one years of age;

(2) Establish written policies and procedures for conducting reviews of the status for all youth in the custody of the department, setting or modifying dates of release and discharge, specifying the duration, terms, and conditions of release to be carried out in supervised release subject to the addition of additional consistent terms and conditions by a court in accordance with section 5139.51 of the Revised Code, and giving a child notice of all reviews;

(3) Maintain records of its official actions, decisions, orders, and hearing summaries and make the records accessible in accordance with division (D) of section 5139.05 of the Revised Code;

(4) Cooperate with public and private agencies, communities, private groups, and individuals for the development and improvement of its services;

(5) Collect, develop, and maintain statistical information regarding its services and decisions;

(6) Submit to the director an annual report that includes a description of the operations of the release authority, an evaluation of its effectiveness, recommendations for statutory, budgetary, or other changes necessary to improve its effectiveness, and any other information required by the director.

(F) The release authority may do any of the following:

(1) Conduct inquiries, investigations, and reviews and hold hearings and other proceedings necessary to properly discharge its responsibilities;

(2) Issue subpoenas, enforceable in a court of law, to compel a person to appear, give testimony, or produce documentary information or other tangible items relating to a matter under inquiry, investigation, review, or hearing;

(3) Administer oaths and receive testimony of persons under oath;

(4) Request assistance, services, and information from a public agency to enable the authority to discharge its responsibilities and receive the assistance, services, and information from the public agency in a reasonable period of time;

(5) Request from a public agency or any other entity that provides or has provided services to a child committed to the department's legal custody information to enable the release authority to properly discharge its responsibilities with respect to that child and receive the information from the public agency or other entity in a reasonable period of time.

(G) The release authority may delegate responsibilities to hearing officers or other designated staff under the release authority's auspices. However, the release authority shall not delegate its authority to make final decisions regarding policy or the release of a child.

The release authority shall adopt a written policy and procedures governing appeals of its release and discharge decisions.

(H) The legal staff of the department of youth services shall provide assistance to the release authority in the formulation of policy and in its handling of individual cases.

**Sec. 5147.07.** No articles or supplies manufactured under this section or sections 5147.12 to 5147.22 of the Revised Code by the labor of convicts of state correctional institutions shall be purchased from any other source for the state or its institutions unless the department of administrative services, in consultation with the department of rehabilitation and correction, determines that the articles or supplies cannot be furnished and issues a waiver under section 125.035 of the Revised Code.

**Sec. 5160.37.** (A) A medical assistance recipient's enrollment in a medical assistance program gives an automatic right of recovery to the department of medicaid and a county department of job and family services against the liability of a third party for the cost of medical assistance paid on behalf of the recipient. When an action or claim is brought against a third party by a medical assistance recipient, any payment, settlement or compromise of the action or claim, or any court award or judgment, is subject to the recovery right of the department of medicaid or county department. Except in the case of a medical assistance recipient who receives medical assistance through a medicaid managed care organization, the department's or county department's claim shall not exceed the amount of medical assistance paid by the department or county department on behalf of the recipient. A payment, settlement, compromise, judgment, or award that excludes the cost of medical assistance paid for by the department or county department shall not preclude a department from enforcing its rights under this section.

(B)(1) In the case of a medical assistance recipient who receives medical assistance through a medicaid managed care organization that has a capitation agreement with a provider, the amount of the department's or county department's claim shall be the amount the medicaid managed care

organization would have paid in the absence of a capitation agreement.

(2) In the case of a medical assistance recipient who receives medical assistance through a medicaid managed care organization that does not have a capitation agreement with a provider, the amount of the department's or county department's claim shall be the amount the medicaid managed care organization pays for medical assistance rendered to the recipient, even if that amount is more than the amount the department or county department pays to the medicaid managed care organization for the recipient's medical assistance.

(C) A medical assistance recipient, and the recipient's attorney, if any, shall cooperate with the departments. In furtherance of this requirement, the medical assistance recipient, or the recipient's attorney, if any, shall, not later than thirty days after initiating informal recovery activity or filing a legal recovery action against a third party, provide written notice of the activity or action to the department of medicaid or county department if it has paid for medical assistance under a medical assistance program.

(D) The written notice that must be given under division (C) of this section shall disclose the identity and address of any third party against whom the medical assistance recipient has or may have a right of recovery.

(E) No settlement, compromise, judgment, or award or any recovery in any action or claim by a medical assistance recipient where the department or county department has a right of recovery shall be made final without first giving the department or county department written notice as described in division (C) of this section and a reasonable opportunity to perfect its rights of recovery. If the department or county department is not given the appropriate written notice, the medical assistance recipient and, if there is one, the recipient's attorney, are liable to reimburse the department or county department for the recovery received to the extent of medical assistance payments made by the department or county department.

(F) The department or county department shall be permitted to enforce its recovery rights against the third party even though it accepted prior payments in discharge of its rights under this section if, at the time the department or county department received such payments, it was not aware that additional medical expenses had been incurred but had not yet been paid by the department or county department. The third party becomes liable to the department or county department as soon as the third party is notified in writing of the valid claims for recovery under this section.

(G)(1) Subject to division (G)(2) of this section, the right of recovery of the department or county department does not apply to that portion of any judgment, award, settlement, or compromise of a claim, to the extent of attorneys' fees, costs, or other expenses incurred by a medical assistance recipient in securing the judgment, award, settlement, or compromise, or to the extent of medical, surgical, and hospital expenses paid by such recipient from the recipient's own resources.

(2) Reasonable attorneys' fees, not to exceed one-third of the total judgment, award, settlement, or compromise, plus costs and other expenses incurred by the medical assistance recipient in securing the judgment, award, settlement, or compromise, shall first be deducted from the total judgment, award, settlement, or compromise. After fees, costs, and other expenses are deducted from the total judgment, award, settlement, or compromise, there shall be a rebuttable presumption that the department of medicaid or county department shall receive no less than one-half of the remaining amount, or the actual amount of medical assistance paid, whichever is less. A party may rebut the



presumption in accordance with division (L)(1) or (2) of this section, as applicable.

(H) A right of recovery created by this section may be enforced separately or jointly by the department of medicaid or county department. To enforce its recovery rights, the department or county department may do any of the following:

(1) Intervene or join in any action or proceeding brought by the medical assistance recipient or on the recipient's behalf against any third party who may be liable for the cost of medical assistance paid;

(2) Institute and pursue legal proceedings against any third party who may be liable for the cost of medical assistance paid;

(3) Initiate legal proceedings in conjunction with any injured, diseased, or disabled medical assistance recipient or the recipient's attorney or representative.

(I) A medical assistance recipient shall not assess attorney fees, costs, or other expenses against the department of medicaid or a county department when the department or county department enforces its right of recovery created by this section.

(J) The right of recovery given to the department under this section includes payments made by a third party under contract with a person having a duty to support.

(K) The department of medicaid may assign to a medical assistance provider the right of recovery given to the department under this section with respect to any claim for which the department has notified the provider that the department intends to recoup the department's prior payment for the claim.

(L)(1) Prior to any payment to the department or a county department pursuant to the department's or county department's right of recovery under this section, a party that desires to rebut the presumption in division (G) of this section shall submit to the department or county department a request for a hearing in accordance with the procedure the department establishes in rules required by division (O) of this section. The amount sought by the department or county department shall be held in escrow or in an interest on lawyers' trust account until the hearing examiner renders a decision or the case is otherwise concluded. A party successfully rebuts the presumption by a showing of clear and convincing evidence that a different allocation is warranted.

(2) A medical assistance recipient who has repaid money, on or after September 29, 2007, to the department or a county department pursuant to the department's or county department's right of recovery under this section, section 5160.38 of the Revised Code, or former section 5101.58 or 5101.59 of the Revised Code may request a hearing to rebut the presumption in division (G) of this section. The request shall be made in accordance with the procedure the department establishes for this purpose in rules required by division (O) of this section. It must be made not later than one hundred eighty days after September 29, 2015, or ninety days after the payment is made, whichever is later. A party successfully rebuts the presumption by a showing of clear and convincing evidence that a different allocation is warranted.

(3) With respect to a hearing requested under division (L)(1) or (2) of this section, all of the following are the case:

(a) The hearing examiner may consider, but is not bound by the allocation of, medical expenses specified in a settlement agreement between the medical assistance recipient and the relevant third party;

(b) The department or county department may raise affirmative defenses during the hearing, including the existence of a prior settlement with the medical assistance recipient, the doctrine of accord and satisfaction, or the common law principle of res judicata;

(c) If the parties agree, live testimony shall not be presented at the hearing;

(d) The hearing may be governed by rules adopted under section 5160.02 of the Revised Code. If such rules are adopted, Chapter 119. of the Revised Code applies to the hearing only to the extent specified in those rules;

(e) The hearing examiner's decision is binding on the department or county department and the medical assistance recipient unless the decision is reversed or modified on appeal to the medicaid director as described in division (M) of this section.

(M)(1) A medical assistance recipient who disagrees with a hearing examiner's decision under division (L) of this section may file an administrative appeal with the medicaid director in accordance with the procedure the department establishes for this purpose in rules required by division (O) of this section. A hearing is not required during the administrative appeal, but the director or the director's designee shall review the hearing examiner's decision and any prior relevant administrative action. After the review, the director or the director's designee shall affirm, modify, remand, or reverse the hearing decision. A decision made under this division is final and binding on the department or county department and the medical assistance recipient unless it is reversed or modified on appeal to a court of common pleas as described in division (N) of this section.

(2) An administrative appeal may be governed by rules adopted under section 5160.02 of the Revised Code. If such rules are adopted, Chapter 119. of the Revised Code applies to an administrative appeal only to the extent specified in those rules.

(N) A party to an administrative appeal described in division (M) of this section may file an appeal with a court of common pleas in accordance with section 119.12 of the Revised Code.

(O) The medicaid director shall adopt rules under section 5160.02 of the Revised Code as necessary to implement this section, including rules establishing procedures a party may use to request a hearing under division (L)(1) or (2) of this section or an administrative appeal under division (M)(1) of this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(P) Divisions (L) to (N) of this section are remedial in nature and shall be liberally construed by the courts of this state in accordance with section 1.11 of the Revised Code. Those divisions specify the sole remedy available to a party who claims the department or a county department has received or is to receive more money than entitled to receive under this section, section 5160.38 of the Revised Code, or former section 5101.58 or 5101.59 of the Revised Code.

**Sec. 5160.401.**

**Sec. 5162.01.** (A) As used in the Revised Code:

(1) "Medicaid" and "medicaid program" mean the program of medical assistance established by Title XIX of the "Social Security Act," 42 U.S.C. 1396 et seq., including any medical assistance provided under the medicaid state plan or a federal medicaid waiver granted by the United States secretary of health and human services.

(2) "Medicare" and "medicare program" mean the federal health insurance program established by Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq.

(B) As used in this chapter:

(1) "Dual eligible individual" has the same meaning as in section 5160.01 of the Revised Code.

(2) "Exchange" has the same meaning as in 45 C.F.R. 155.20.

(3) "Federal financial participation" has the same meaning as in section 5160.01 of the Revised Code.

(4) "Federal poverty line" means the official poverty line defined by the United States office of management and budget based on the most recent data available from the United States bureau of the census and revised by the United States secretary of health and human services pursuant to the "Omnibus Budget Reconciliation Act of 1981," section 673(2), 42 U.S.C. 9902(2).

(5) "Healthcheck" has the same meaning as in section 5164.01 of the Revised Code.

(6) "Healthy start component" means the component of the medicaid program that covers pregnant women and children and is identified in rules adopted under section 5162.02 of the Revised Code as the healthy start component.

(7) "Home and community-based services" means services provided under a home and community-based services medicaid waiver component.

(8) "Home and community-based services medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.

(9) "ICF/IID" has the same meaning as in section 5124.01 of the Revised Code.

(10) "Individualized education program" has the same meaning as in section 3323.011 of the Revised Code.

(11) "Medicaid managed care organization" has the same meaning as in section 5167.01 of the Revised Code.

(12) "Medicaid provider" has the same meaning as in section 5164.01 of the Revised Code.

(13) "Medicaid services" has the same meaning as in section 5164.01 of the Revised Code.

(14) "Medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code;

(15) "Nursing facility" and "nursing facility services" have the same meanings as in section 5165.01 of the Revised Code.

(16) "Ordering or referring only provider" means a medicaid provider who orders, prescribes, refers, or certifies a service or item reported on a claim for medicaid payment but does not bill for medicaid services.

(17) "Political subdivision" means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities only in a geographical area smaller than that of the state.

(18) "Prescribed drug" has the same meaning as in section 5164.01 of the Revised Code.

(19) "Provider agreement" has the same meaning as in section 5164.01 of the Revised Code.

(20) "Qualified medicaid school provider" means the board of education of a city, local, or exempted village school district, the governing authority of a community school established under Chapter 3314. of the Revised Code, the state school for the deaf, and the state school for the blind to which both of the following apply:

(a) It holds a valid provider agreement.

(b) It meets all other conditions for participation in the medicaid school component of the medicaid program established in rules authorized by section 5162.364 of the Revised Code.

(21) "State agency" means every organized body, office, or agency, other than the department of medicaid, established by the laws of the state for the exercise of any function of state government.

(22) "Vendor offset" means a reduction of a medicaid payment to a medicaid provider to correct a previous, incorrect medicaid payment to that provider.

**Sec. 5162.11.** (A) The department of medicaid shall enter into an agreement with the department of administrative services for the department of administrative services to contract through competitive selection pursuant to section 125.07 of the Revised Code with a vendor to perform an assessment of the data collection and data warehouse functions of the medicaid data warehouse system, including the ability to link the data sets of all agencies serving medicaid recipients.

The assessment of the data system shall include functions related to fraud and abuse detection, program management and budgeting, and performance measurement capabilities of all agencies serving medicaid recipients, including the departments of aging, health, job and family services, medicaid, mental health and addiction services, and developmental disabilities.

A qualified vendor with whom the department of administrative services contracts to assess the data system shall also assist the medicaid agencies in the definition of the requirements for an enhanced data system or a new data system and assist the department of administrative services in the preparation of a request for proposals to enhance or develop a data system.

(B) Based on the assessment performed pursuant to division (A) of this section, the department of administrative services shall seek a qualified vendor through competitive selection pursuant to Chapter 125. of the Revised Code to develop or enhance a data collection and data warehouse system for the department of medicaid and all agencies serving medicaid recipients.

The department of medicaid shall seek enhanced federal financial participation for ninety per cent of the funds required to establish or enhance the data system. The department of administrative services shall not award a contract for establishing or enhancing the data system until the department of medicaid receives approval from the United States secretary of health and human services for the ninety per cent federal financial participation.

**Sec. 5162.12.** (A) The medicaid director shall enter into a contract with one or more persons to receive and process, on the director's behalf, requests for medicaid recipient or claims payment data, data from reports of audits conducted under section 5165.109 of the Revised Code, or extracts or analyses of any of the foregoing data made by persons who intend to use the items prepared pursuant to the requests for commercial or academic purposes.

(B) At a minimum, a contract entered into under this section shall do both of the following:

(1) Authorize the contracting person to engage in the activities described in division (A) of this section for compensation, which must be stated as a percentage of the fees paid by persons who are provided the items;

(2) Require the contracting person to charge for an item prepared pursuant to a request a fee in an amount equal to one hundred two per cent of the cost the department of medicaid incurs in making the data used to prepare the item available to the contracting person.

(C) Except as required by federal or state law and subject to division (E) of this section, both

of the following conditions apply with respect to a request for data described in division (A) of this section:

(1) The request shall be made through a person who has entered into a contract with the medicaid director under this section.

(2) An item prepared pursuant to the request may be provided to the department of medicaid and is confidential and not subject to disclosure under section 149.43 or 1347.08 of the Revised Code.

(D) The medicaid director shall use fees the director receives pursuant to a contract entered into under this section to pay obligations specified in contracts entered under this section. Any money remaining after the obligations are paid shall be deposited in the health care/medicaid support and recoveries fund created under section 5162.52 of the Revised Code.

(E) This section does not apply to requests for medicaid recipient or claims payment data, data from reports of audits conducted under section 5165.109 of the Revised Code, or extracts or analyses of any of the foregoing data that are for any of the following purposes:

(1) Treatment of medicaid recipients;

(2) Payment of medicaid claims;

(3) Establishment or management of medicaid third party liability pursuant to sections 5160.35 to 5160.43 of the Revised Code;

(4) Compliance with the terms of an agreement the medicaid director enters into for purposes of administering the medicaid program;

(5) Compliance with an operating protocol the executive director of the office of health transformation or the executive director's designee adopts under division (D) of section 191.06 of the Revised Code.

**Sec. 5162.13.** (A) On or before the first day of January of each year, the department of medicaid shall complete a report on the effectiveness of the medicaid program in meeting the health care needs of low-income pregnant women, infants, and children. The report shall include all of the following, delineated by race and ethnic group:

(1) The estimated number of pregnant women, infants, and children eligible for the program;

(2) The actual number of eligible persons enrolled in the program;

(3) The actual number of enrolled pregnant women categorized by estimated gestational age at time of enrollment;

(4) The average number of days between the following events:

(a) A pregnant woman's application for medicaid and enrollment in the fee-for-service component of medicaid;

(b) A pregnant woman's application for enrollment in a medicaid managed care organization and enrollment in the managed care organization.

The information described in divisions (A)(4)(a) and (b) of this section shall also be delineated by county and the urban and rural communities specified in rules adopted under section 3701.142 of the Revised Code.

(5) The number of prenatal, postpartum, and child health visits;

(6) The estimated number of enrolled women of child-bearing age who use a tobacco product;

(7) The estimated number of enrolled women of child-bearing age who participate in a tobacco cessation program or who use a tobacco cessation product;

(8) The rates at which enrolled pregnant women receive addiction or mental health services, progesterone therapy, and any other service specified by the department;

(9) A report on birth outcomes, including a comparison of low-birthweight births and infant mortality rates of medicaid recipients with the general female child-bearing and infant population in this state;

(10) A comparison of the prenatal, delivery, and child health costs of the program with such costs of similar programs in other states, where available;

(11) A report on performance data generated by the component of the state innovation model (SIM) grant pertaining to episode-based payments for perinatal care that was awarded to this state by the center for medicare and medicaid innovation in the United States centers for medicare and medicaid services;

(12) A report on funds allocated for infant mortality reduction initiatives in the urban and rural communities specified in rules adopted under section 3701.142 of the Revised Code;

(13) A report on the results of client responses to questions related to pregnancy services and healthcheck that are asked by the personnel of county departments of job and family services;

(14) A comparison of the performance of the fee-for-service component of medicaid with the performance of each medicaid managed care organization on perinatal health metrics.

(B) The department shall submit the report to the general assembly in accordance with section 101.68 of the Revised Code and to the joint medicaid oversight committee. The department also shall make the report available to the public.

**Sec. 5162.36.** The medicaid director shall create, in accordance with sections 5162.36 to 5162.366 of the Revised Code, the medicaid school component of the medicaid program.

**Sec. 5162.361.** A qualified medicaid school provider participating in the medicaid school component of the medicaid program may submit a claim to the department of medicaid for federal financial participation for providing, in schools, services covered by the medicaid school component to medicaid recipients who are eligible for the services. No qualified medicaid school provider may submit such a claim before the provider incurs the cost of providing the service.

The claim shall include certification of the qualified medicaid school provider's expenditures for the service. The certification shall show that the money the qualified medicaid school provider used for the expenditures was nonfederal money the provider may legally use for providing the service and that the amount of the expenditures was sufficient to pay the full cost of the service.

Except as otherwise provided in sections 5162.36 to 5162.366 of the Revised Code, a qualified medicaid school provider is subject to all conditions of participation in the medicaid program that generally apply to providers of goods and services under the medicaid program, including conditions regarding claims, audits, and recovery of overpayments.

**Sec. 5162.363.** The department of medicaid shall enter into an interagency agreement with the department of education under section 5162.35 of the Revised Code that provides for the department of education to administer the medicaid school component of the medicaid program other than the aspects of the component that sections 5162.36 to 5162.366 of the Revised Code require the department of medicaid to administer. The interagency agreement may include a provision that

provides for the department of education to pay to the department of medicaid the nonfederal share of a portion of the administrative expenses the department of medicaid incurs in administering the aspects of the component that the department of medicaid administers.

To the extent authorized by rules authorized by section 5162.021 of the Revised Code, the department of education shall adopt rules establishing a process by which qualified medicaid school providers participating in the medicaid school component pay to the department of education the nonfederal share of the department's expenses incurred in administering the component. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

**Sec. 5162.365.**

**Sec. 5163.03.** (A) Subject to section 5163.05 of the Revised Code, the medicaid program shall cover all mandatory eligibility groups.

(B) The medicaid program shall cover all of the optional eligibility groups that state statutes require the medicaid program to cover.

(C) The medicaid program may cover any of the optional eligibility groups to which either of the following applies:

(1) State statutes expressly permit the medicaid program to cover the optional eligibility group.

(2) The medicaid program covers the optional eligibility group on ~~the effective date of this amendment~~ November 22, 2017.

(D) The medicaid program shall not cover an optional eligibility group to which either of the following applies:

(1) State statutes prohibit the medicaid program from covering the optional eligibility group.

(2) Except as provided in divisions (B) and (C)(1) of this section, the medicaid program does not cover the optional eligibility group on ~~the effective date of this amendment~~ November 22, 2017.

**Sec. 5163.04.**

**Sec. 5163.06.** The medicaid program shall cover all of the following optional eligibility groups:

(A) The group consisting of children placed with adoptive parents who are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(VIII), 42 U.S.C. 1396a(a)(10)(A)(ii)(VIII);

(B) Subject to section 5163.061 of the Revised Code, the group consisting of women during pregnancy and the sixty-day period beginning on the last day of the pregnancy, infants, and children who are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(IX), 42 U.S.C. 1396a(a)(10)(A)(ii)(IX);

(C) Subject to sections 5163.09 to 5163.098 of the Revised Code, the group consisting of employed individuals with disabilities who are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(XV), 42 U.S.C. 1396a(a)(10)(A)(ii)(XV);

(D) Subject to sections 5163.09 to 5163.098 of the Revised Code, the group consisting of employed individuals with medically improved disabilities who are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(XVI), 42 U.S.C. 1396a(a)(10)(A)(ii)(XVI);

(E) The group consisting of independent foster care adolescents who are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(XVII), 42 U.S.C. 1396a(a)(10)(A)(ii)(XVII);

(F) The group consisting of women in need of treatment for breast or cervical cancer who are

specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(XVIII), 42 U.S.C. 1396a(a)(10)(A)(ii)(XVIII);.

**Sec. 5163.21.** (A)(1) This section applies only to either of the following:

(a) Initial eligibility determinations for the medicaid program;

(b) An appeal from an initial eligibility determination pursuant to section 5160.31 of the Revised Code.

(2)(a) Except as provided in division (A)(2)(b) of this section, this section shall not be used by a court to determine the effect of a trust on an individual's initial eligibility for the medicaid program.

(b) The prohibition in division (A)(2)(a) of this section does not apply to an appeal described in division (A)(1)(b) of this section.

(B) As used in this section:

(1) "Trust" means any arrangement in which a grantor transfers real or personal property to a trust with the intention that it be held, managed, or administered by at least one trustee for the benefit of the grantor or beneficiaries. "Trust" includes any legal instrument or device similar to a trust.

(2) "Legal instrument or device similar to a trust" includes, but is not limited to, escrow accounts, investment accounts, partnerships, contracts, and other similar arrangements that are not called trusts under state law but are similar to a trust and to which all of the following apply:

(a) The property in the trust is held, managed, retained, or administered by a trustee.

(b) The trustee has an equitable, legal, or fiduciary duty to hold, manage, retain, or administer the property for the benefit of the beneficiary.

(c) The trustee holds identifiable property for the beneficiary.

(3) "Grantor" is a person who creates a trust, including all of the following:

(a) An individual;

(b) An individual's spouse;

(c) A person, including a court or administrative body, with legal authority to act in place of or on behalf of an individual or an individual's spouse;

(d) A person, including a court or administrative body, that acts at the direction or on request of an individual or the individual's spouse.

(4) "Beneficiary" is a person or persons, including a grantor, who benefits in some way from a trust.

(5) "Trustee" is a person who manages a trust's principal and income for the benefit of the beneficiaries.

(6) "Person" has the same meaning as in section 1.59 of the Revised Code and includes an individual, corporation, business trust, estate, trust, partnership, and association.

(7) "Applicant" is an individual who applies for medicaid or the individual's spouse.

(8) "Recipient" is an individual who receives medicaid or the individual's spouse.

(9) "Revocable trust" is a trust that can be revoked by the grantor or the beneficiary, including all of the following, even if the terms of the trust state that it is irrevocable:

(a) A trust that provides that the trust can be terminated only by a court;

(b) A trust that terminates on the happening of an event, but only if the event occurs at the direction or control of the grantor, beneficiary, or trustee.



(10) "Irrevocable trust" is a trust that cannot be revoked by the grantor or terminated by a court and that terminates only on the occurrence of an event outside of the control or direction of the beneficiary or grantor.

(11) "Payment" is any disbursement from the principal or income of the trust, including actual cash, noncash or property disbursements, or the right to use and occupy real property.

(12) "Payments to or for the benefit of the applicant or recipient" is a payment to any person resulting in a direct or indirect benefit to the applicant or recipient.

(13) "Testamentary trust" is a trust that is established by a will and does not take effect until after the death of the person who created the trust.

(C)(1) If an applicant or recipient is a beneficiary of a trust, the applicant or recipient shall submit a complete copy of the trust instrument to the county department of job and family services and the department of medicaid. A copy shall be considered complete if it contains all pages of the trust instrument and all schedules, attachments, and accounting statements referenced in or associated with the trust. The copy is confidential and is not subject to disclosure under section 149.43 of the Revised Code.

(2) On receipt of a copy of a trust instrument or otherwise determining that an applicant or recipient is a beneficiary of a trust, the county department of job and family services shall determine what type of trust it is and shall treat the trust in accordance with the appropriate provisions of this section and rules adopted under section 5163.02 of the Revised Code governing trusts. The county department of job and family services may determine that any of the following is the case regarding the trust or portion of the trust:

- (a) It is a resource available to the applicant or recipient;
- (b) It contains income available to the applicant or recipient;
- (c) Divisions (C)(2)(a) and (b) of this section are both applicable;
- (d) Neither division (C)(2)(a) nor (b) of this section is applicable.

(3) Except as provided in division (F) of this section, a trust or portion of a trust that is a resource available to the applicant or recipient or contains income available to the applicant or recipient shall be counted for purposes of determining medicaid eligibility.

(D)(1) A trust or legal instrument or device similar to a trust shall be considered a medicaid qualifying trust if all of the following apply:

- (a) The trust was established on or prior to August 10, 1993.
- (b) The trust was not established by a will.
- (c) The trust was established by an applicant or recipient.
- (d) The applicant or recipient is or may become the beneficiary of all or part of the trust.

(e) Payment from the trust is determined by one or more trustees who are permitted to exercise any discretion with respect to the distribution to the applicant or recipient.

(2) If a trust meets the requirement of division (D)(1) of this section, the amount of the trust that is considered by the county department of job and family services to be a resource available to the applicant or recipient shall be the maximum amount of payments permitted under the terms of the trust to be distributed to the applicant or recipient, assuming the full exercise of discretion by the trustee or trustees. The maximum amount shall include only amounts that are permitted to be distributed but are not distributed from either the income or principal of the trust.

(3) Amounts that are actually distributed from a medicaid qualifying trust to a beneficiary for any purpose shall be treated in accordance with rules adopted under section 5163.02 of the Revised Code governing income.

(4) Availability of a medicaid qualifying trust shall be considered without regard to any of the following:

(a) Whether or not the trust is irrevocable or was established for purposes other than to enable a grantor to qualify for medicaid;

(b) Whether or not the trustee actually exercises discretion.

(5) If any real or personal property is transferred to a medicaid qualifying trust that is not distributable to the applicant or recipient, the transfer shall be considered an improper disposition of assets and shall be subject to section 5163.30 of the Revised Code and rules to implement that section adopted under section 5163.02 of the Revised Code.

(6) The baseline date for the look-back period for disposition of assets involving a medicaid qualifying trust shall be the date on which the applicant or recipient is both institutionalized and first applies for medicaid.

(E)(1) A trust or legal instrument or device similar to a trust shall be considered a self-settled trust if all of the following apply:

(a) The trust was established on or after August 11, 1993.

(b) The trust was not established by a will.

(c) The trust was established by an applicant or recipient, spouse of an applicant or recipient, or a person, including a court or administrative body, with legal authority to act in place of or on behalf of an applicant, recipient, or spouse, or acting at the direction or on request of an applicant, recipient, or spouse.

(2) A trust that meets the requirements of division (E)(1) of this section and is a revocable trust shall be treated by the county department of job and family services as follows:

(a) The corpus of the trust shall be considered a resource available to the applicant or recipient.

(b) Payments from the trust to or for the benefit of the applicant or recipient shall be considered unearned income of the applicant or recipient.

(c) Any other payments from the trust shall be considered an improper disposition of assets and shall be subject to section 5163.30 of the Revised Code and rules to implement that section adopted under section 5163.02 of the Revised Code.

(3) A trust that meets the requirements of division (E)(1) of this section and is an irrevocable trust shall be treated by the county department of job and family services as follows:

(a) If there are any circumstances under which payment from the trust could be made to or for the benefit of the applicant or recipient, including a payment that can be made only in the future, the portion from which payments could be made shall be considered a resource available to the applicant or recipient. The county department of job and family services shall not take into account when payments can be made.

(b) Any payment that is actually made to or for the benefit of the applicant or recipient from either the corpus or income shall be considered unearned income.

(c) If a payment is made to someone other than to the applicant or recipient and the payment

is not for the benefit of the applicant or recipient, the payment shall be considered an improper disposition of assets and shall be subject to section 5163.30 of the Revised Code and rules to implement that section adopted under section 5163.02 of the Revised Code.

(d) The date of the disposition shall be the later of the date of establishment of the trust or the date of the occurrence of the event.

(e) When determining the value of the disposed asset under this provision, the value of the trust shall be its value on the date payment to the applicant or recipient was foreclosed.

(f) Any income earned or other resources added subsequent to the foreclosure date shall be added to the total value of the trust.

(g) Any payments to or for the benefit of the applicant or recipient after the foreclosure date but prior to the application date shall be subtracted from the total value. Any other payments shall not be subtracted from the value.

(h) Any addition of assets after the foreclosure date shall be considered a separate disposition.

(4) If a trust is funded with assets of another person or persons in addition to assets of the applicant or recipient, the applicable provisions of this section and rules adopted under section 5163.02 of the Revised Code governing trusts shall apply only to the portion of the trust attributable to the applicant or recipient.

(5) The availability of a self-settled trust shall be considered without regard to any of the following:

(a) The purpose for which the trust is established;

(b) Whether the trustees have exercised or may exercise discretion under the trust;

(c) Any restrictions on when or whether distributions may be made from the trust;

(d) Any restrictions on the use of distributions from the trust.

(6) The baseline date for the look-back period for dispositions of assets involving a self-settled trust shall be the date on which the applicant or recipient is both institutionalized and first applies for medicaid.

(F) The principal or income from any of the following shall not be a resource available to the applicant or recipient:

(1)(a) A special needs trust that meets all of the following requirements:

(i) The trust contains assets of an applicant or recipient under sixty-five years of age and may contain the assets of other individuals.

(ii) The applicant or recipient is disabled as defined in rules adopted under section 5163.02 of the Revised Code.

(iii) The trust is established for the benefit of the applicant or recipient by a parent, grandparent, legal guardian, or a court.

(iv) The trust requires that on the death of the applicant or recipient the state will receive all amounts remaining in the trust up to an amount equal to the total amount of medicaid payments made on behalf of the applicant or recipient.

(b) If a special needs trust meets the requirements of division (F)(1)(a) of this section and has been established for a disabled applicant or recipient under sixty-five years of age, the exemption for the trust granted pursuant to division (F) of this section shall continue after the disabled applicant or recipient becomes sixty-five years of age if the applicant or recipient continues to be disabled as

defined in rules adopted under section 5163.02 of the Revised Code. Except for income earned by the trust, the grantor shall not add to or otherwise augment the trust after the applicant or recipient attains sixty-five years of age. An addition or augmentation of the trust by the applicant or recipient with the applicant's own assets after the applicant or recipient attains sixty-five years of age shall be treated as an improper disposition of assets.

(c) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted under section 5163.02 of the Revised Code governing in-kind income.

(d) Transfers of assets to a special needs trust shall not be treated as an improper transfer of resources. An asset held prior to the transfer to the trust shall be considered as a resource available to the applicant or recipient, income available to the applicant or recipient, or both a resource and income available to the individual.

(2)(a) A qualifying income trust that meets all of the following requirements:

(i) The trust is composed only of pension, social security, and other income to the applicant or recipient, including accumulated interest in the trust.

(ii) The income is received by the individual and the right to receive the income is not assigned or transferred to the trust.

(iii) The trust requires that on the death of the applicant or recipient the state will receive all amounts remaining in the trust up to an amount equal to the total amount of medicaid payments made on behalf of the applicant or recipient.

(b) No resources shall be used to establish or augment the trust.

(c) If an applicant or recipient has irrevocably transferred or assigned the applicant's or recipient's right to receive income to the trust, the trust shall not be considered a qualifying income trust by the county department of job and family services.

(d) Income placed in a qualifying income trust shall not be counted in determining an applicant's or recipient's eligibility for medicaid. The recipient of the funds may place any income directly into a qualifying income trust without those funds adversely affecting the applicant's or recipient's eligibility for medicaid. Income generated by the trust that remains in the trust shall not be considered as income to the applicant or recipient.

(e) All income placed in a qualifying income trust shall be combined with any income available to the individual that is not placed in the trust to arrive at a base income figure to be used for spend down calculations.

(f) The base income figure shall be used for post-eligibility deductions, including personal needs allowance, monthly income allowance, family allowance, and medical expenses not subject to third party payment. Any income remaining shall be used toward payment of patient liability. Payments made from a qualifying income trust shall not be combined with the base income figure for post-eligibility calculations.

(g) The base income figure shall be used when determining the spend down budget for the applicant or recipient. Any income remaining after allowable deductions are permitted as provided under rules adopted under section 5163.02 of the Revised Code shall be considered the applicant's or recipient's spend down liability.

(3)(a) A pooled trust that meets all of the following requirements:

(i) The trust contains the assets of the applicant or recipient of any age who is disabled as defined in rules adopted under section 5163.02 of the Revised Code.

(ii) The trust is established and managed by a nonprofit organization.

(iii) A separate account is maintained for each beneficiary of the trust but, for purposes of investment and management of funds, the trust pools the funds in these accounts.

(iv) Accounts in the trust are established by the applicant or recipient, the applicant's or recipient's parent, grandparent, or legal guardian, or a court solely for the benefit of individuals who are disabled.

(v) The trust requires that, to the extent that any amounts remaining in the beneficiary's account on the death of the beneficiary are not retained by the trust, the trust pay to the state the amounts remaining in the trust up to an amount equal to the total amount of medicaid payments made on behalf of the beneficiary.

(b) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted under section 5163.02 of the Revised Code governing in-kind income.

(c) Transfers of assets to a pooled trust shall not be treated as an improper disposition of assets. An asset held prior to the transfer to the trust shall be considered as a resource available to the applicant or recipient, income available to the applicant or recipient, or both a resource and income available to the applicant or recipient.

(4) A supplemental services trust that meets the requirements of section 5815.28 of the Revised Code and to which all of the following apply:

(a) A person may establish a supplemental services trust pursuant to section 5815.28 of the Revised Code only for another person who is eligible to receive services through one of the following agencies:

(i) The department of developmental disabilities;

(ii) A county board of developmental disabilities;

(iii) The department of mental health and addiction services;

(iv) A board of alcohol, drug addiction, and mental health services.

(b) A county department of job and family services shall not determine eligibility for another agency's program. An applicant or recipient shall do one of the following:

(i) Provide documentation from one of the agencies listed in division (F)(4)(a) of this section that establishes that the applicant or recipient was determined to be eligible for services from the agency at the time of the creation of the trust;

(ii) Provide an order from a court of competent jurisdiction that states that the applicant or recipient was eligible for services from one of the agencies listed in division (F)(4)(a) of this section at the time of the creation of the trust.

(c) At the time the trust is created, the trust principal does not exceed the maximum amount permitted. The maximum amount permitted in calendar year 2006 is two hundred twenty-two thousand dollars. Each year thereafter, the maximum amount permitted is the prior year's amount plus two thousand dollars.

(d) A county department of job and family services shall review the trust to determine whether it complies with the provisions of section 5815.28 of the Revised Code.

(e) Payments from supplemental services trusts shall be exempt as long as the payments are for supplemental services as defined in rules adopted under section 5163.02 of the Revised Code. All supplemental services shall be purchased by the trustee and shall not be purchased through direct cash payments to the beneficiary.

(f) If a trust is represented as a supplemental services trust and a county department of job and family services determines that the trust does not meet the requirements provided in division (F) (4) of this section and section 5815.28 of the Revised Code, the county department of job and family services shall not consider it an exempt trust.

(G)(1) A trust or legal instrument or device similar to a trust shall be considered a trust established by an individual for the benefit of the applicant or recipient if all of the following apply:

(a) The trust is created by a person other than the applicant or recipient.

(b) The trust names the applicant or recipient as a beneficiary.

(c) The trust is funded with assets or property in which the applicant or recipient has never held an ownership interest prior to the establishment of the trust.

(2) Any portion of a trust that meets the requirements of division (G)(1) of this section shall be a resource available to the applicant or recipient only if the trust permits the trustee to expend principal, corpus, or assets of the trust for the applicant's or recipient's medical care, care, comfort, maintenance, health, welfare, general well being, or any combination of these purposes.

(3) A trust that meets the requirements of division (G)(1) of this section shall be considered a resource available to the applicant or recipient even if the trust contains any of the following types of provisions:

(a) A provision that prohibits the trustee from making payments that would supplant or replace medicaid or other public assistance;

(b) A provision that prohibits the trustee from making payments that would impact or have an effect on the applicant's or recipient's right, ability, or opportunity to receive medicaid or other public assistance;

(c) A provision that attempts to prevent the trust or its corpus or principal from being a resource available to the applicant or recipient.

(4) A trust that meets the requirements of division (G)(1) of this section shall not be counted as a resource available to the applicant or recipient if at least one of the following circumstances applies:

(a) If a trust contains a clear statement requiring the trustee to preserve a portion of the trust for another beneficiary or remainderman, that portion of the trust shall not be counted as a resource available to the applicant or recipient. Terms of a trust that grant discretion to preserve a portion of the trust shall not qualify as a clear statement requiring the trustee to preserve a portion of the trust.

(b) If a trust contains a clear statement requiring the trustee to use a portion of the trust for a purpose other than medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, that portion of the trust shall not be counted as a resource available to the applicant or recipient. Terms of a trust that grant discretion to limit the use of a portion of the trust shall not qualify as a clear statement requiring the trustee to use a portion of the trust for a particular purpose.

(c) If a trust contains a clear statement limiting the trustee to making fixed periodic payments,

the trust shall not be counted as a resource available to the applicant or recipient and payments shall be treated in accordance with rules adopted under section 5163.02 of the Revised Code governing income. Terms of a trust that grant discretion to limit payments shall not qualify as a clear statement requiring the trustee to make fixed periodic payments.

(d) If a trust contains a clear statement that requires the trustee to terminate the trust if it is counted as a resource available to the applicant or recipient, the trust shall not be counted as such. Terms of a trust that grant discretion to terminate the trust do not qualify as a clear statement requiring the trustee to terminate the trust.

(e) If a person obtains a judgment from a court of competent jurisdiction that expressly prevents the trustee from using part or all of the trust for the medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, the trust or that portion of the trust subject to the court order shall not be counted as a resource available to the applicant or recipient.

(f) If a trust is specifically exempt from being counted as a resource available to the applicant or recipient by a provision of the Revised Code, rules, or federal law, the trust shall not be counted as such.

(g) If an applicant or recipient presents a final judgment from a court demonstrating that the applicant or recipient was unsuccessful in a civil action against the trustee to compel payments from the trust, the trust shall not be counted as a resource available to the applicant or recipient.

(h) If an applicant or recipient presents a final judgment from a court demonstrating that in a civil action against the trustee the applicant or recipient was only able to compel limited or periodic payments, the trust shall not be counted as a resource available to the applicant or recipient and payments shall be treated in accordance with rules adopted under section 5163.02 of the Revised Code governing income.

(i) If an applicant or recipient provides written documentation showing that the cost of a civil action brought to compel payments from the trust would be cost prohibitive, the trust shall not be counted as a resource available to the applicant or recipient.

(5) Any actual payments to the applicant or recipient from a trust that meet the requirements of division (G)(1) of this section, including trusts that are not counted as a resource available to the applicant or recipient, shall be treated as provided in rules adopted under section 5163.02 of the Revised Code governing income. Payments to any person other than the applicant or recipient shall not be considered income to the applicant or recipient. Payments from the trust to a person other than the applicant or recipient shall not be considered an improper disposition of assets.

**Sec. 5163.30.** (A) As used in this section:

(1) "Assets" include all of an individual's income and resources and those of the individual's spouse, including any income or resources the individual or spouse is entitled to but does not receive because of action by any of the following:

(a) The individual or spouse;

(b) A person or government entity, including a court or administrative agency, with legal authority to act in place of or on behalf of the individual or spouse;

(c) A person or government entity, including a court or administrative agency, acting at the direction or on the request of the individual or spouse.

(2) "Home and community-based services" means home and community-based services furnished under a medicaid waiver granted by the United States secretary of health and human services under the "Social Security Act," section 1915(c) or (d), 42 U.S.C. 1396n(c) or (d).

(3) "Institutionalized individual" means a resident of a nursing facility, an inpatient in a medical institution for whom a payment is made based on a level of care provided in a nursing facility, or an individual described in the "Social Security Act," section 1902(a)(10)(A)(ii)(VI), 42 U.S.C. 1396a(a)(10)(A)(ii)(VI).

(4) "Look-back date" means the date that is a number of months specified in rules adopted under section 5163.02 of the Revised Code immediately before either of the following:

(a) The date an individual becomes an institutionalized individual if the individual is eligible for medicaid on that date;

(b) The date an individual applies for medicaid while an institutionalized individual.

(5) "Nursing facility equivalent services" means services that are covered by the medicaid program, equivalent to nursing facility services, provided by an institution that provides the same level of care as a nursing facility, and provided to an inpatient of the institution who is a medicaid recipient eligible for medicaid-covered nursing facility equivalent services.

(6) "Undue hardship" means being deprived of either of the following:

(a) Medical care such that an individual's health or life is endangered;

(b) Food, clothing, shelter, or other necessities of life.

(B) Except as provided in division (C) of this section and rules adopted under section 5163.02 of the Revised Code, an institutionalized individual is ineligible for nursing facility services, nursing facility equivalent services, and home and community-based services if the individual or individual's spouse disposes of assets for less than fair market value on or after the look-back date. The institutionalized individual's ineligibility shall begin on a date determined in accordance with rules adopted under section 5163.02 of the Revised Code and shall continue for a number of months determined in accordance with such rules.

(C)(1) An institutionalized individual may be granted a waiver of all or a portion of the period of ineligibility to which the individual would otherwise be subjected under division (B) of this section if the ineligibility would cause an undue hardship for the individual.

(2) An institutionalized individual shall be granted a waiver of all or a portion of the period of ineligibility if the administrator of the nursing facility in which the individual resides has notified the individual of a proposed transfer or discharge under section 3721.16 of the Revised Code due to failure to pay for the care the nursing facility has provided to the individual, the individual or the individual's sponsor requests a hearing on the proposed transfer or discharge in accordance with section 3721.161 of the Revised Code, and the transfer or discharge is upheld by a final determination that is not subject to further appeal.

(3) An institutionalized individual may be granted a waiver of all of the period of ineligibility if all of the assets that were disposed of for less than fair market value are returned to the individual or individual's spouse or if the individual or individual's spouse receives cash or other personal or real property that equals the difference between what the individual or individual's spouse received for the assets and the fair market value of the assets. Except as provided in division (C)(1) or (2) of this section, no waiver of any part of the period of ineligibility shall be granted if the amount the



individual or individual's spouse receives is less than the difference between what the individual or individual's spouse received for the assets and the fair market value of the assets.

(4) Waivers shall be granted in accordance with rules adopted under section 5163.02 of the Revised Code.

(D) To secure compliance with this section, the medicaid director may require an individual, as a condition of initial or continued eligibility for medicaid, to provide documentation of the individual's assets up to five years before the date the individual becomes an institutionalized individual if the individual is eligible for medicaid on that date or the date the individual applies for medicaid while an institutionalized individual. Documentation may include tax returns, records from financial institutions, and real property records.

**Sec. 5163.33.** (A) In determining the amount of income that a medicaid recipient must apply monthly toward payment of the cost of care in a nursing facility or ICF/IID, a county department of job and family services shall deduct from the recipient's monthly income a monthly personal needs allowance in accordance with the "Social Security Act," section 1902(q), 42 U.S.C. 1396a(q).

(B) In the case of a resident of a nursing facility, the monthly personal needs allowance shall be not less than fifty dollars for an individual resident and not less than one hundred dollars for a married couple if both spouses are residents of a nursing facility and their incomes are considered available to each other in determining eligibility.

(C) In the case of a resident of an ICF/IID, the monthly personal needs allowance shall be as follows:

(1) Prior to January 1, 2016, forty dollars unless the resident has earned income, in which case the monthly personal needs allowance shall be determined by the department of medicaid, or the department's designee, but shall not exceed one hundred five dollars;

(2) For calendar year 2016 and each calendar year thereafter, not less than fifty dollars for an individual resident and not less than one hundred dollars for a married couple if both spouses are residents of an ICF/IID and their incomes are considered available to each other in determining eligibility.

**Sec. 5164.01.** As used in this chapter:

(A) "Adjudication" has the same meaning as in section 119.01 of the Revised Code.

(B) "Behavioral health redesign" means proposals developed in a collaborative effort by the office of health transformation, department of medicaid, and department of mental health and addiction services to make revisions to the medicaid program's coverage of community behavioral health services beginning July 1, 2017, including revisions that update medicaid billing codes and payment rates for community behavioral health services.

(C) "Clean claim" has the same meaning as in 42 C.F.R. 447.45(b).

(D) "Community behavioral health services" means both of the following:

(1) Alcohol and drug addiction services provided by a community addiction services provider, as defined in section 5119.01 of the Revised Code;

(2) Mental health services provided by a community mental health services provider, as defined in section 5119.01 of the Revised Code.

(E) "Early and periodic screening, diagnostic, and treatment services" has the same meaning as in the "Social Security Act," section 1905(r), 42 U.S.C. 1396d(r).

(F) "Federal financial participation" has the same meaning as in section 5160.01 of the Revised Code.

(G) "Federal poverty line" has the same meaning as in section 5162.01 of the Revised Code.

(H) "Healthcheck" means the component of the medicaid program that provides early and periodic screening, diagnostic, and treatment services.

(I) "Home and community-based services medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.

(J) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(K) "ICDS participant" means a dual eligible individual who participates in the integrated care delivery system.

(L) "ICF/IID" has the same meaning as in section 5124.01 of the Revised Code.

(M) "Integrated care delivery system" and "ICDS" mean the demonstration project authorized by section 5164.91 of the Revised Code.

(N) "Mandatory services" means the health care services and items that must be covered by the medicaid state plan as a condition of the state receiving federal financial participation for the medicaid program.

(O) "Medicaid managed care organization" has the same meaning as in section 5167.01 of the Revised Code.

(P) "Medicaid provider" means a person or government entity with a valid provider agreement to provide medicaid services to medicaid recipients. To the extent appropriate in the context, "medicaid provider" includes a person or government entity applying for a provider agreement, a former medicaid provider, or both.

(Q) "Medicaid services" means either or both of the following:

(1) Mandatory services;

(2) Optional services that the medicaid program covers.

(R) "Nursing facility" has the same meaning as in section 5165.01 of the Revised Code.

(S) "Optional services" means the health care services and items that may be covered by the medicaid state plan or a federal medicaid waiver and for which the medicaid program receives federal financial participation.

(T) "Prescribed drug" has the same meaning as in 42 C.F.R. 440.120.

(U) "Provider agreement" means an agreement to which all of the following apply:

(1) It is between a medicaid provider and the department of medicaid;

(2) It provides for the medicaid provider to provide medicaid services to medicaid recipients;

(3) It complies with 42 C.F.R. 431.107(b).

(V) "State plan home and community-based services" means home and community-based services that, as authorized by section 1915(i) of the "Social Security Act," 42 U.S.C. 1396n(i), may be covered by the medicaid program pursuant to an amendment to the medicaid state plan.

(W) "Terminal distributor of dangerous drugs" has the same meaning as in section 4729.01 of the Revised Code.

**Sec. 5164.38.** (A) As used in this section:

(1) "Party" has the same meaning as in division (G) of section 119.01 of the Revised Code.

(2) "Revalidate" means to approve a medicaid provider's continued enrollment as a medicaid

provider in accordance with the revalidation process established in rules authorized by section 5164.32 of the Revised Code.

(B) This section does not apply to either of the following:

(1) Any action taken or decision made by the department of medicaid with respect to entering into or refusing to enter into a contract with a managed care organization pursuant to section 5167.10 of the Revised Code;

(2) Any action taken by the department under division (D)(2) of section 5124.60, division (D)(1) or (2) of section 5124.61, or sections 5165.60 to 5165.89 of the Revised Code.

(C) Except as provided in division (E) of this section and section 5164.58 of the Revised Code, the department shall do any of the following by issuing an order pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code:

(1) Refuse to enter into a provider agreement with a medicaid provider;

(2) Refuse to revalidate a medicaid provider's provider agreement;

(3) Suspend or terminate a medicaid provider's provider agreement;

(4) Take any action based upon a final fiscal audit of a medicaid provider.

(D) Any party who is adversely affected by the issuance of an adjudication order under division (C) of this section may appeal to the court of common pleas of Franklin county in accordance with section 119.12 of the Revised Code.

(E) The department is not required to comply with division (C)(1), (2), or (3) of this section whenever any of the following occur:

(1) The terms of a provider agreement require the medicaid provider to hold a license, permit, or certificate or maintain a certification issued by an official, board, commission, department, division, bureau, or other agency of state or federal government other than the department of medicaid, and the license, permit, certificate, or certification has been denied, revoked, not renewed, suspended, or otherwise limited.

(2) The terms of a provider agreement require the medicaid provider to hold a license, permit, or certificate or maintain certification issued by an official, board, commission, department, division, bureau, or other agency of state or federal government other than the department of medicaid, and the provider has not obtained the license, permit, certificate, or certification.

(3) The medicaid provider's application for a provider agreement is denied, or the provider's provider agreement is terminated or not revalidated, because of or pursuant to any of the following:

(a) The termination, refusal to renew, or denial of a license, permit, certificate, or certification by an official, board, commission, department, division, bureau, or other agency of this state other than the department of medicaid, notwithstanding the fact that the provider may hold a license, permit, certificate, or certification from an official, board, commission, department, division, bureau, or other agency of another state;

(b) Division (D) or (E) of section 5164.35 of the Revised Code;

(c) The provider's termination, suspension, or exclusion from the medicare program or from another state's medicaid program and, in either case, the termination, suspension, or exclusion is binding on the provider's participation in the medicaid program in this state;

(d) The provider's pleading guilty to or being convicted of a criminal activity materially related to either the medicare or medicaid program;

(e) The provider or its owner, officer, authorized agent, associate, manager, or employee having been convicted of one of the offenses that caused the provider's provider agreement to be suspended pursuant to section 5164.36 of the Revised Code;

(f) The provider's failure to provide the department the national provider identifier assigned the provider by the national provider system pursuant to 45 C.F.R. 162.408.

(4) The medicaid provider's application for a provider agreement is denied, or the provider's provider agreement is terminated or suspended, as a result of action by the United States department of health and human services and that action is binding on the provider's medicaid participation.

(5) Pursuant to either section 5164.36 or 5164.37 of the Revised Code, the medicaid provider's provider agreement is suspended and payments to the provider are suspended pending indictment of the provider.

(6) The medicaid provider's application for a provider agreement is denied because the provider's application was not complete;

(7) The medicaid provider's provider agreement is converted under section 5164.32 of the Revised Code from a provider agreement that is not time-limited to a provider agreement that is time-limited.

(8) Unless the medicaid provider is a nursing facility or ICF/IID, the provider's provider agreement is not revalidated pursuant to division (B)(1) of section 5164.32 of the Revised Code.

(9) The medicaid provider's provider agreement is suspended, terminated, or not revalidated because of either of the following:

(a) Any reason authorized or required by one or more of the following: 42 C.F.R. 455.106, 455.23, 455.416, 455.434, or 455.450;

(b) The provider has not billed or otherwise submitted a medicaid claim for two years or longer.

(F) In the case of a medicaid provider described in division (E)(3)(f), (6), (7), or (9)(b) of this section, the department may take its action by sending a notice explaining the action to the provider. The notice shall be sent to the medicaid provider's address on record with the department. The notice may be sent by regular mail.

(G) The department may withhold payments for medicaid services rendered by a medicaid provider during the pendency of proceedings initiated under division (C)(1), (2), or (3) of this section. If the proceedings are initiated under division (C)(4) of this section, the department may withhold payments only to the extent that they equal amounts determined in a final fiscal audit as being due the state. This division does not apply if the department fails to comply with section 119.07 of the Revised Code, requests a continuance of the hearing, or does not issue a decision within thirty days after the hearing is completed. This division does not apply to nursing facilities and ICFs/IID.

**Sec. 5164.57.** (A)(1) Except as provided in division (A)(2) of this section, the department of medicaid may recover a medicaid payment or portion of a payment made to a medicaid provider to which the provider is not entitled if the department notifies the provider of the overpayment during the five-year period immediately following the end of the state fiscal year in which the overpayment was made.

(2) In the case of a hospital medicaid provider, if the department determines as a result of a medicare or medicaid cost report settlement that the provider received an amount under the medicaid

program to which the provider is not entitled, the department may recover the overpayment if the department notifies the provider of the overpayment during the later of the following:

(a) The five-year period immediately following the end of the state fiscal year in which the overpayment was made;

(b) The one-year period immediately following the date the department receives from the United States centers for medicare and medicaid services a completed, audited, medicare cost report for the provider that applies to the state fiscal year in which the overpayment was made.

(B) Among the overpayments that may be recovered under this section are the following:

(1) Payment for a medicaid service, or a day of service, not rendered;

(2) Payment for a day of service at a full per diem rate that should have been paid at a percentage of the full per diem rate;

(3) Payment for a medicaid service, or day of service, that was paid by, or partially paid by, a third party, as defined in section 5160.35 of the Revised Code, and the third party's payment or partial payment was not offset against the amount paid by the medicaid program to reduce or eliminate the amount that was paid by the medicaid program;

(4) Payment when a medicaid recipient's responsibility for payment was understated and resulted in an overpayment to the provider.

(C) The department may recover an overpayment under this section prior to or after any of the following:

(1) Adjudication of a final fiscal audit that section 5164.38 of the Revised Code requires to be conducted in accordance with Chapter 119. of the Revised Code;

(2) Adjudication of a finding under any other provision of state statutes governing the medicaid program or the rules adopted under those statutes;

(3) Expiration of the time to issue a final fiscal audit that section 5164.38 of the Revised Code requires to be conducted in accordance with Chapter 119. of the Revised Code;

(4) Expiration of the time to issue a finding under any other provision of state statutes governing the medicaid program or the rules adopted under those statutes.

(D)(1) Subject to division (D)(2) of this section, the recovery of an overpayment under this section does not preclude the department from subsequently doing the following:

(a) Issuing a final fiscal audit in accordance with Chapter 119. of the Revised Code, as required under section 5164.38 of the Revised Code;

(b) Issuing a finding under any other provision of state statutes governing the medicaid program or the rules adopted under those statutes.

(2) A final fiscal audit or finding issued subsequent to the recovery of an overpayment under this section shall be reduced by the amount of the prior recovery, as appropriate.

(E) Nothing in this section limits the department's authority to recover overpayments pursuant to any other provision of the Revised Code.

**Sec. 5164.78.**

**Sec. 5164.912.**

**Sec. 5165.15.** (A) Except as otherwise provided by sections 5165.151 to 5165.157 and 5165.34 of the Revised Code, the total per medicaid day payment rate that the department of medicaid shall pay a nursing facility provider for nursing facility services the provider's nursing

facility provides during a fiscal year shall equal the sum of all of the following:

(1) The per medicaid day payment rate for ancillary and support costs determined for the nursing facility under section 5165.16 of the Revised Code;

(2) The per medicaid day payment rate for capital costs determined for the nursing facility under section 5165.17 of the Revised Code;

(3) The per medicaid day payment rate for direct care costs determined for the nursing facility under section 5165.19 of the Revised Code;

(4) The per medicaid day payment rate for tax costs determined for the nursing facility under section 5165.21 of the Revised Code;

(5) If the nursing facility qualifies as a critical access nursing facility, the nursing facility's critical access incentive payment paid under section 5165.23 of the Revised Code;

(6) The quality incentive payment paid to the nursing facility under section 5165.25 of the Revised Code.

(B) In addition to paying a nursing facility provider the nursing facility's total rate determined under division (A) of this section for a fiscal year, the department shall pay the provider a quality bonus under section 5165.26 of the Revised Code for that fiscal year if the provider's nursing facility is a qualifying nursing facility, as defined in that section, for that fiscal year. The quality bonus shall not be part of the total rate.

**Sec. 5165.151.** (A) The total per medicaid day payment rate determined under section 5165.15 of the Revised Code shall not be the initial rate for nursing facility services provided by a new nursing facility. Instead, the initial total per medicaid day payment rate for nursing facility services provided by a new nursing facility shall be determined in the following manner:

(1) The initial rate for ancillary and support costs shall be the rate for the new nursing facility's peer group determined under division (C) of section 5165.16 of the Revised Code.

(2) The initial rate for capital costs shall be the rate for the new nursing facility's peer group determined under division (C) of section 5165.17 of the Revised Code;

(3) The initial rate for direct care costs shall be the product of the cost per case-mix unit determined under division (C) of section 5165.19 of the Revised Code for the new nursing facility's peer group and the new nursing facility's case-mix score determined under division (B) of this section.

(4) The initial rate for tax costs shall be the following:

(a) If the provider of the new nursing facility submits to the department of medicaid the nursing facility's projected tax costs for the calendar year in which the provider obtains an initial provider agreement for the new nursing facility, an amount determined by dividing those projected tax costs by the number of inpatient days the nursing facility would have for that calendar year if its occupancy rate were one hundred per cent;

(b) If division (A)(4)(a) of this section does not apply, the median rate for tax costs for the new nursing facility's peer group in which the nursing facility is placed under division (B) of section 5165.16 of the Revised Code.

(5) The quality payment shall be the mean quality payment rate determined for nursing facilities under section 5165.25 of the Revised Code.

(6) Fourteen dollars and sixty-five cents shall be added to the sum of the rates and payment

specified in divisions (A)(1) to (5) of this section.

(B) For the purpose of division (A)(3) of this section, a new nursing facility's case-mix score shall be the following:

(1) Unless the new nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the new nursing facility begins participating in the medicaid program, the median annual average case-mix score for the new nursing facility's peer group;

(2) If the nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the new nursing facility begins participating in the medicaid program, the semiannual case-mix score most recently determined under section 5165.192 of the Revised Code for the replaced nursing facility as adjusted, if necessary, to reflect any difference in the number of beds in the replaced and new nursing facilities.

(C) Subject to division (D) of this section, the department of medicaid shall adjust the rates established under division (A) of this section effective the first day of July, to reflect new rate calculations for all nursing facilities under this chapter.

(D) If a rate for direct care costs is determined under this section for a new nursing facility using the median annual average case-mix score for the new nursing facility's peer group, the rate shall be redetermined to reflect the new nursing facility's actual semiannual average case-mix score determined under section 5165.192 of the Revised Code after the new nursing facility submits its first two quarterly assessment data that qualify for use in calculating a case-mix score in accordance with rules authorized by section 5165.192 of the Revised Code. If the new nursing facility's quarterly submissions do not qualify for use in calculating a case-mix score, the department shall continue to use the median annual average case-mix score for the new nursing facility's peer group in lieu of the new nursing facility's semiannual case-mix score until the new nursing facility submits two consecutive quarterly assessment data that qualify for use in calculating a case-mix score.

**Sec. 5165.152.** The total per medicaid day payment rate determined under section 5165.15 of the Revised Code shall not be paid for nursing facility services provided to low resource utilization residents. Instead, the total rate for such nursing facility services shall be one hundred thirty dollars per medicaid day.

**Sec. 5165.157.** (A) The medicaid director shall establish an alternative purchasing model for nursing facility services provided by designated discrete units of nursing facilities to medicaid recipients with specialized health care needs. The director shall do all of the following with regard to the model:

(1) Establish criteria that a discrete unit of a nursing facility must meet to be designated as a unit that, under the alternative purchasing model, may admit and provide nursing facility services to medicaid recipients with specialized health care needs;

(2) Specify the health care conditions that medicaid recipients must have to have specialized health care needs, which may include dependency on a ventilator, severe traumatic brain injury, the need to be admitted to a long-term acute care hospital or rehabilitation hospital if not for nursing facility services, and other serious health care conditions;

(3) For each fiscal year, set the total per medicaid day payment rate for nursing facility services provided by designated discrete units of nursing facilities under the alternative purchasing model at either of the following:

(a) Thirty-four per cent of the statewide average of the total per medicaid day payment rate for long-term acute care hospital services as of the first day of the fiscal year;

(b) Another amount determined in accordance with an alternative methodology that includes improved health outcomes as a factor in determining the payment rate.

(4) Require, to the extent the director considers necessary, a medicaid recipient to obtain prior authorization for admission to a long-term acute care hospital or rehabilitation hospital as a condition of medicaid payment for long-term acute care hospital or rehabilitation hospital services.

(B) The criteria established under division (A)(1) of this section shall provide for a discrete unit of a nursing facility to be excluded from the alternative purchasing model if the unit is paid for nursing facility services in accordance with section 5165.153, 5165.154, or 5165.156 of the Revised Code. The criteria may require the provider of a nursing facility that has a discrete unit designated for participation in the alternative purchasing model to report health outcome measurement data to the department of medicaid.

(C) A discrete unit of a nursing facility that provides nursing facility services to medicaid recipients with specialized health care needs under the alternative purchasing model shall be paid for those services in accordance with division (A)(3) of this section instead of the total per medicaid day payment rate determined under section 5165.15, 5165.153, 5165.154, or 5165.156 of the Revised Code.

**Sec. 5165.16.** (A) The department of medicaid shall determine each nursing facility's per medicaid day payment rate for ancillary and support costs. A nursing facility's rate shall be the rate determined under division (C) of this section for the nursing facility's peer group.

(B) For the purpose of determining nursing facilities' rates for ancillary and support costs, the department shall establish six peer groups composed as follows:

(1) Each nursing facility located in any of the following counties shall be placed in peer group one or two: Brown, Butler, Clermont, Clinton, Hamilton, and Warren. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group one. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group two.

(2) Each nursing facility located in any of the following counties shall be placed in peer group three or four: Allen, Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Mahoning, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Stark, Summit, Trumbull, Union, and Wood. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group three. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group four.

(3) Each nursing facility located in any of the following counties shall be placed in peer group five or six: Adams, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot. Each nursing facility located in any of those counties that has fewer



than one hundred beds shall be placed in peer group five. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group six.

(C)(1) The department shall determine the rate for ancillary and support costs for each peer group established under division (B) of this section. The rate for ancillary and support costs determined under this division for a peer group shall be used for subsequent years until the department conducts a rebasing. To determine a peer group's rate for ancillary and support costs, the department shall do all of the following:

(a) Subject to division (C)(2) of this section, determine the rate for ancillary and support costs for each nursing facility in the peer group for the applicable calendar year by using the greater of the nursing facility's actual inpatient days for the applicable calendar year or the inpatient days the nursing facility would have had for the applicable calendar year if its occupancy rate had been ninety per cent;

(b) Subject to division (C)(3) of this section, identify which nursing facility in the peer group is at the twenty-fifth percentile of the rate for ancillary and support costs for the applicable calendar year determined under division (C)(1)(a) of this section;

(c) Multiply the rate for ancillary and support costs determined under division (C)(1)(a) of this section for the nursing facility identified under division (C)(1)(b) of this section by the rate of inflation for the eighteen-month period beginning on the first day of July of the applicable calendar year and ending the last day of December of the calendar year immediately following the applicable calendar year using the following:

(i) Except as provided in division (C)(1)(c)(ii) of this section, the consumer price index for all items for all urban consumers for the midwest region, published by the United States bureau of labor statistics;

(ii) If the United States bureau of labor statistics ceases to publish the index specified in division (C)(1)(c)(i) of this section, the index the bureau subsequently publishes that covers urban consumers' prices for items for the region that includes this state.

(d) For state fiscal year 2020 and each state fiscal year thereafter (other than the first state fiscal year in a group of consecutive state fiscal years for which a rebasing is conducted), adjust the amount calculated under division (C)(1)(c) of this section using the difference between the following:

(i) The medicare skilled nursing facility market basket index determined for the federal fiscal year that begins during the state fiscal year immediately preceding the state fiscal year for which the adjustment is being made under division (C)(1)(d) of this section;

(ii) The budget reduction adjustment factor for the state fiscal year for which the adjustment is being made under division (C)(1)(d) of this section.

(2) For the purpose of determining a nursing facility's occupancy rate under division (C)(1)(a) of this section, the department shall include any beds that the nursing facility removes from its medicaid-certified capacity unless the nursing facility also removes the beds from its licensed bed capacity.

(3) In making the identification under division (C)(1)(b) of this section, the department shall exclude both of the following:

(a) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(b) Nursing facilities whose ancillary and support costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem ancillary and support cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

(4) The department shall not redetermine a peer group's rate for ancillary and support costs under this division based on additional information that it receives after the rate is determined. The department shall redetermine a peer group's rate for ancillary and support costs only if the department made an error in determining the rate based on information available to the department at the time of the original determination.

**Sec. 5165.17.** (A) The department of medicaid shall determine each nursing facility's per medicaid day payment rate for capital costs. A nursing facility's rate shall be the rate determined under division (C) of this section.

(B) For the purpose of determining nursing facilities' rates for capital costs, the department shall establish six peer groups.

(1) Each nursing facility located in any of the following counties shall be placed in peer group one or two: Brown, Butler, Clermont, Clinton, Hamilton, and Warren. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group one. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group two.

(2) Each nursing facility located in any of the following counties shall be placed in peer group three or four: Allen, Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Mahoning, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Stark, Summit, Trumbull, Union, and Wood. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group three. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group four.

(3) Each nursing facility located in any of the following counties shall be placed in peer group five or six: Adams, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group five. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group six.

(C)(1) The department shall determine the rate for capital costs for each peer group established under division (B) of this section. The rate for capital costs determined under this division for a peer group shall be used for subsequent years until the department conducts a rebasing. To determine a peer group's rate for capital costs, the department shall do both of the following:

(a) Determine the rate for capital costs for the nursing facility in the peer group that is at the twenty-fifth percentile of the rate for capital costs for the applicable calendar year;

(b) For state fiscal year 2020 and each state fiscal year thereafter (other than the first state fiscal year in a group of consecutive state fiscal years for which a rebasing is conducted), adjust the

amount calculated under division (C)(1)(a) of this section using the difference between the following:

(i) The medicare skilled nursing facility market basket index determined for the federal fiscal year that begins during the state fiscal year immediately preceding the state fiscal year for which the adjustment is being made under division (C)(1)(a) of this section;

(ii) The budget reduction adjustment factor for the state fiscal year for which the adjustment is being made under division (C)(1)(a) of this section.

(2) To identify the nursing facility in a peer group that is at the twenty-fifth percentile of the rate for capital costs for the applicable calendar year, the department shall do both of the following:

(a) Subject to division (C)(3) of this section, use the greater of each nursing facility's actual inpatient days for the applicable calendar year or the inpatient days the nursing facility would have had for the applicable calendar year if its occupancy rate had been one hundred per cent;

(b) Exclude both of the following:

(i) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(ii) Nursing facilities whose capital costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem capital cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

(3) For the purpose of determining a nursing facility's occupancy rate under division (C)(2)(a) of this section, the department shall include any beds that the nursing facility removes from its medicaid-certified capacity after June 30, 2005, unless the nursing facility also removes the beds from its licensed bed capacity.

(4) The department shall not redetermine a peer group's rate for capital costs under this division based on additional information that it receives after the rate is determined. The department shall redetermine a peer group's rate for capital costs only if the department made an error in determining the rate based on information available to the department at the time of the original determination.

(D) Buildings shall be depreciated using the straight line method over forty years or over a different period approved by the department. Components and equipment shall be depreciated using the straight-line method over a period designated in rules adopted under section 5165.02 of the Revised Code, consistent with the guidelines of the American hospital association, or over a different period approved by the department. Any rules authorized by this division that specify useful lives of buildings, components, or equipment apply only to assets acquired on or after July 1, 1993. Depreciation for costs paid or reimbursed by any government agency shall not be included in capital costs unless that part of the payment under this chapter is used to reimburse the government agency.

(E) The capital cost basis of nursing facility assets shall be determined in the following manner:

(1) Except as provided in division (E)(3) of this section, for purposes of calculating the rates to be paid for facilities with dates of licensure on or before June 30, 1993, the capital cost basis of each asset shall be equal to the desk-reviewed, actual, allowable, capital cost basis that is listed on the facility's cost report for the calendar year preceding the state fiscal year during which the rate will be paid.

(2) For facilities with dates of licensure after June 30, 1993, the capital cost basis shall be

determined in accordance with the principles of the medicare program, except as otherwise provided in this chapter.

(3) Except as provided in division (E)(4) of this section, if a provider transfers an interest in a facility to another provider after June 30, 1993, there shall be no increase in the capital cost basis of the asset if the providers are related parties or the provider to which the interest is transferred authorizes the provider that transferred the interest to continue to operate the facility under a lease, management agreement, or other arrangement. If the previous sentence does not prohibit the adjustment of the capital cost basis under this division, the basis of the asset shall be adjusted by one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time that the transferor held the asset.

(4) If a provider transfers an interest in a facility to another provider who is a related party, the capital cost basis of the asset shall be adjusted as specified in division (E)(3) of this section if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) Except as provided in division (E)(4)(c)(ii) of this section, the provider making the transfer retains no ownership interest in the facility;

(c) The department determines that the transfer is an arm's length transaction pursuant to rules adopted under section 5165.02 of the Revised Code. The rules shall provide that a transfer is an arm's length transaction if all of the following apply:

(i) Once the transfer goes into effect, the provider that made the transfer has no direct or indirect interest in the provider that acquires the facility or the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a creditor.

(ii) The provider that made the transfer does not reacquire an interest in the facility except through the exercise of a creditor's rights in the event of a default. If the provider reacquires an interest in the facility in this manner, the department shall treat the facility as if the transfer never occurred when the department calculates its reimbursement rates for capital costs.

(iii) The transfer satisfies any other criteria specified in the rules.

(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a provider making the transfer who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (E)(4) of this section or actual, allowable capital costs was determined most recently under division (F)(9) of this section.

(F) As used in this division:

"Imputed interest" means the lesser of the prime rate plus two per cent or ten per cent.

"Lease expense" means lease payments in the case of an operating lease and depreciation expense and interest expense in the case of a capital lease.

"New lease" means a lease, to a different lessee, of a nursing facility that previously was operated under a lease.

(1) Subject to division (A) of this section, for a lease of a facility that was effective on May 27, 1992, the entire lease expense is an actual, allowable capital cost during the term of the existing lease. The entire lease expense also is an actual, allowable capital cost if a lease in existence on May

27, 1992, is renewed under either of the following circumstances:

(a) The renewal is pursuant to a renewal option that was in existence on May 27, 1992;

(b) The renewal is for the same lease payment amount and between the same parties as the lease in existence on May 27, 1992.

(2) Subject to division (A) of this section, for a lease of a facility that was in existence but not operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis, adjusted by one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease.

(3) Subject to division (A) of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that is initially operated under a lease, actual, allowable capital costs shall include the annual lease expense if there was a substantial commitment of money for construction of the facility after December 22, 1992, and before July 1, 1993. If there was not a substantial commitment of money after December 22, 1992, and before July 1, 1993, actual, allowable capital costs shall include the lesser of the annual lease expense or the sum of the following:

(a) The annual depreciation expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis;

(b) The greater of the lessor's actual annual amortization of financing costs and interest expense at the inception of the lease or the imputed interest expense calculated at the inception of the lease using seventy per cent of the lessor's historical capital asset cost basis.

(4) Subject to division (A) of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that was not initially operated under a lease and has been in existence for ten years, actual, allowable capital costs shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the entire historical capital asset cost basis of one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease.

(5) Subject to division (A) of this section, for a new lease of a facility that was operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of the annual new lease expense or the annual old lease payment. If the old lease was in effect for ten years or longer, the old lease payment from the beginning of the old lease shall be adjusted by one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, from the beginning of the old lease to the beginning of the new lease.

(6) Subject to division (A) of this section, for a new lease of a facility that was not in existence or that was in existence but not operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of annual new lease expense or the annual amount calculated for the old lease under division (F)(2), (3), (4), or (6) of this section, as applicable. If the old lease was in effect for ten years or longer, the lessor's historical capital asset cost basis shall be, for purposes of calculating the annual amount under division (F)(2), (3), (4), or (6) of this section, adjusted by one-half of the change in the consumer price index for all items for all urban consumers, as published by

the United States bureau of labor statistics, from the beginning of the old lease to the beginning of the new lease.

In the case of a lease under division (F)(3) of this section of a facility for which a substantial commitment of money was made after December 22, 1992, and before July 1, 1993, the old lease payment shall be adjusted for the purpose of determining the annual amount.

(7) For any revision of a lease described in division (F)(1), (2), (3), (4), (5), or (6) of this section, or for any subsequent lease of a facility operated under such a lease, other than execution of a new lease, the portion of actual, allowable capital costs attributable to the lease shall be the same as before the revision or subsequent lease.

(8) Except as provided in division (F)(9) of this section, if a provider leases an interest in a facility to another provider who is a related party or previously operated the facility, the related party's or previous operator's actual, allowable capital costs shall include the lesser of the annual lease expense or the reasonable cost to the lessor.

(9) If a provider leases an interest in a facility to another provider who is a related party, regardless of the date of the lease, the related party's actual, allowable capital costs shall include the annual lease expense, subject to the limitations specified in divisions (F)(1) to (7) of this section, if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) If the lessor retains an ownership interest, it is, except as provided in division (F)(9)(c)(ii) of this section, in only the real property and any improvements on the real property;

(c) The department determines that the lease is an arm's length transaction pursuant to rules adopted under section 5165.02 of the Revised Code. The rules shall provide that a lease is an arm's length transaction if all of the following apply:

(i) Once the lease goes into effect, the lessor has no direct or indirect interest in the lessee or, except as provided in division (F)(9)(b) of this section, the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a lessor.

(ii) The lessor does not reacquire an interest in the facility except through the exercise of a lessor's rights in the event of a default. If the lessor reacquires an interest in the facility in this manner, the department shall treat the facility as if the lease never occurred when the department calculates its reimbursement rates for capital costs.

(iii) The lease satisfies any other criteria specified in the rules.

(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a lessor who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (E)(4) of this section or actual, allowable capital costs were determined most recently under division (F)(9) of this section.

(10) This division does not apply to leases of specific items of equipment.

**Sec. 5165.19.** (A) Semiannually, the department of medicaid shall determine each nursing facility's per medicaid day payment rate for direct care costs by multiplying the facility's semiannual case-mix score determined under section 5165.192 of the Revised Code by the cost per case-mix unit determined under division (C) of this section for the facility's peer group.

(B) For the purpose of determining nursing facilities' rates for direct care costs, the department shall establish three peer groups.

(1) Each nursing facility located in any of the following counties shall be placed in peer group one: Brown, Butler, Clermont, Clinton, Hamilton, and Warren.

(2) Each nursing facility located in any of the following counties shall be placed in peer group two: Allen, Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Mahoning, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Stark, Summit, Trumbull, Union, and Wood.

(3) Each nursing facility located in any of the following counties shall be placed in peer group three: Adams, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot.

(C)(1) The department shall determine a cost per case-mix unit for each peer group established under division (B) of this section. The cost per case-mix unit determined under this division for a peer group shall be used for subsequent years until the department conducts a rebasing. To determine a peer group's cost per case-mix unit, the department shall do all of the following:

(a) Determine the cost per case-mix unit for each nursing facility in the peer group for the applicable calendar year by dividing each facility's desk-reviewed, actual, allowable, per diem direct care costs for the applicable calendar year by the facility's annual average case-mix score determined under section 5165.192 of the Revised Code for the applicable calendar year;

(b) Subject to division (C)(2) of this section, identify which nursing facility in the peer group is at the twenty-fifth percentile of the cost per case-mix units determined under division (C)(1)(a) of this section;

(c) Calculate the amount that is two per cent above the cost per case-mix unit determined under division (C)(1)(a) of this section for the nursing facility identified under division (C)(1)(b) of this section;

(d) Using the index specified in division (C)(3) of this section, multiply the rate of inflation for the eighteen-month period beginning on the first day of July of the applicable calendar year and ending the last day of December of the calendar year immediately following the applicable calendar year by the amount calculated under division (C)(1)(c) of this section;

(e) For state fiscal year 2020 and each state fiscal year thereafter (other than the first state fiscal year in a group of consecutive state fiscal years for which a rebasing is conducted), adjust the amount calculated under division (C)(1)(d) of this section using the difference between the following:

(i) The medicare skilled nursing facility market basket index determined for the federal fiscal year that begins during the state fiscal year immediately preceding the state fiscal year for which the adjustment is being made under division (C)(1)(e) of this section;

(ii) The budget reduction adjustment factor for the state fiscal year for which the adjustment is being made under division (C)(1)(e) of this section.

(2) In making the identification under division (C)(1)(b) of this section, the department shall exclude both of the following:

(a) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(b) Nursing facilities whose cost per case-mix unit is more than one standard deviation from the mean cost per case-mix unit for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

(3) The following index shall be used for the purpose of the calculation made under division (C)(1)(d) of this section:

(a) Except as provided in division (C)(3)(b) of this section, the employment cost index for total compensation, nursing and residential care facilities occupational group, published by the United States bureau of labor statistics;

(b) If the United States bureau of labor statistics ceases to publish the index specified in division (C)(3)(a) of this section, the index the bureau subsequently publishes that covers nursing facilities' staff costs.

(4) The department shall not redetermine a peer group's cost per case-mix unit under this division based on additional information that it receives after the peer group's per case-mix unit is determined. The department shall redetermine a peer group's cost per case-mix unit only if it made an error in determining the peer group's cost per case-mix unit based on information available to the department at the time of the original determination.

**Sec. 5165.192.** (A)(1) Except as provided in division (B) of this section and in accordance with the process specified in rules authorized by this section, the department of medicaid shall do all of the following:

(a) Every quarter, determine the following two case-mix scores for each nursing facility:

(i) A quarterly case-mix score that includes each resident who is a medicaid recipient and is not a low resource utilization resident;

(ii) A quarterly case-mix score that includes each resident regardless of payment source.

(b) Every six months, determine a semiannual average case-mix score for each nursing facility by using the quarterly case-mix scores determined for the nursing facility pursuant to division (A)(1)(a)(i) of this section;

(c) After the end of each calendar year, determine an annual average case-mix score for each nursing facility by using the quarterly case-mix scores determined for the nursing facility pursuant to division (A)(1)(a)(ii) of this section.

(2) When determining case-mix scores under division (A)(1) of this section, the department shall use all of the following:

(a) Data from a resident assessment instrument specified in rules authorized by section 5165.191 of the Revised Code;

(b) Except as provided in rules authorized by this section, the case-mix values established by the United States department of health and human services;

(c) Except as modified in rules authorized by this section, the grouper methodology used on June 30, 1999, by the United States department of health and human services for prospective payment of skilled nursing facilities under the medicare program.



(B)(1) Subject to division (B)(2) of this section, the department, for one or more months of a calendar quarter, may assign to a nursing facility a case-mix score that is five per cent less than the nursing facility's case-mix score for the immediately preceding calendar quarter if any of the following apply:

(a) The provider does not timely submit complete and accurate resident assessment data necessary to determine the nursing facility's case-mix score for the calendar quarter;

(b) The nursing facility was subject to an exception review under section 5165.193 of the Revised Code for the immediately preceding calendar quarter;

(c) The nursing facility was assigned a case-mix score for the immediately preceding calendar quarter.

(2) Before assigning a case-mix score to a nursing facility due to the submission of incorrect resident assessment data, the department shall permit the provider to correct the data. The department may assign the case-mix score if the provider fails to submit the corrected resident assessment data not later than the earlier of the forty-fifth day after the end of the calendar quarter to which the data pertains or the deadline for submission of such corrections established by regulations adopted by the United States department of health and human services under Title XVIII and Title XIX.

(3) If, for more than six months in a calendar year, a provider is paid a rate determined for a nursing facility using a case-mix score assigned to the nursing facility under division (B)(1) of this section, the department may assign the nursing facility a cost per case-mix unit that is five per cent less than the nursing facility's actual or assigned cost per case-mix unit for the immediately preceding calendar year. The department may use the assigned cost per case-mix unit, instead of determining the nursing facility's actual cost per case-mix unit in accordance with section 5165.19 of the Revised Code, to establish the nursing facility's rate for direct care costs for the fiscal year immediately following the calendar year for which the cost per case-mix unit is assigned.

(4) The department shall take action under division (B)(1), (2), or (3) of this section only in accordance with rules authorized by this section. The department shall not take an action that affects rates for prior payment periods except in accordance with sections 5165.41 and 5165.42 of the Revised Code.

(C) The medicaid director shall adopt rules under section 5165.02 of the Revised Code as necessary to implement this section.

(1) The rules shall do all of the following:

(a) Specify the process for determining the semiannual and annual average case-mix scores for nursing facilities;

(b) Adjust the case-mix values specified in division (A)(2)(b) of this section to reflect changes in relative wage differentials that are specific to this state;

(c) Express all of those case-mix values in numeric terms that are different from the terms specified by the United States department of health and human services but that do not alter the relationship of the case-mix values to one another;

(d) Modify the grouper methodology specified in division (A)(2)(c) of this section as follows:

(i) Establish a different hierarchy for assigning residents to case-mix categories under the methodology;

(ii) Allow the use of the index maximizer element of the methodology;

(iii) Incorporate changes to the methodology the United States department of health and human services makes after June 30, 1999;

(iv) Make other changes the department determines are necessary.

(e) Establish procedures under which resident assessment data shall be reviewed for accuracy and providers shall be notified of any data that requires correction;

(f) Establish procedures for providers to correct resident assessment data and specify a reasonable period of time by which providers shall submit the corrections. The procedures may limit the content of corrections in the manner required by regulations adopted by the United States department of health and human services under Title XVIII and Title XIX.

(g) Specify when and how the department will assign case-mix scores or costs per case-mix unit to a nursing facility under division (B) of this section if information necessary to calculate the nursing facility's case-mix score is not provided or corrected in accordance with the procedures established by the rules.

(2) Notwithstanding any other provision of this chapter, the rules may provide for the exclusion of case-mix scores assigned to a nursing facility under division (B) of this section from the determination of the nursing facility's semiannual or annual average case-mix score and the cost per case-mix unit for the nursing facility's peer group.

**Sec. 5165.23.** (A) Each state fiscal year, the department of medicaid shall determine the critical access incentive payment for each nursing facility that qualifies as a critical access nursing facility. To qualify as a critical access nursing facility for a state fiscal year, a nursing facility must meet all of the following requirements:

(1) The nursing facility must be located in an area that, on December 31, 2011, was designated an empowerment zone under the "Internal Revenue Code of 1986," section 1391, 26 U.S.C. 1391.

(2) The nursing facility must have an occupancy rate of at least eighty-five per cent as of the last day of the calendar year immediately preceding the state fiscal year.

(3) The nursing facility must have a medicaid utilization rate of at least sixty-five per cent as of the last day of the calendar year immediately preceding the state fiscal year.

(B) A critical access nursing facility's critical access incentive payment for a state fiscal year shall equal five per cent of the portion of the nursing facility's total per medicaid day payment rate for the state fiscal year that is the sum of the rates identified in divisions (A)(1) to (4) of section 5165.15 of the Revised Code.

**Sec. 5165.25.**

**Sec. 5166.01.** As used in this chapter:

"209(b) option" means the option described in section 1902(f) of the "Social Security Act," 42 U.S.C. 1396a(f), under which the medicaid program's eligibility requirements for aged, blind, and disabled individuals are more restrictive than the eligibility requirements for the supplemental security income program.

"Administrative agency" means, with respect to a home and community-based services medicaid waiver component, the department of medicaid or, if a state agency or political subdivision contracts with the department under section 5162.35 of the Revised Code to administer the component, that state agency or political subdivision.

"Care management system" means the system established under section 5167.03 of the Revised Code.

"Dual eligible individual" has the same meaning as in section 5160.01 of the Revised Code.

"Expansion eligibility group" has the same meaning as in section 5163.01 of the Revised Code.

"Federal poverty line" has the same meaning as in section 5162.01 of the Revised Code.

"Home and community-based services medicaid waiver component" means a medicaid waiver component under which home and community-based services are provided as an alternative to hospital services, nursing facility services, or ICF/IID services.

"Hospital" has the same meaning as in section 3727.01 of the Revised Code.

"Hospital long-term care unit" has the same meaning as in section 5168.40 of the Revised Code.

"ICDS participant" has the same meaning as in section 5164.01 of the Revised Code.

"ICF/IID" and "ICF/IID services" have the same meanings as in section 5124.01 of the Revised Code.

"Integrated care delivery system" and "ICDS" have the same meanings as in section 5164.01 of the Revised Code.

"Level of care determination" means a determination of whether an individual needs the level of care provided by a hospital, nursing facility, or ICF/IID and whether the individual, if determined to need that level of care, would receive hospital services, nursing facility services, or ICF/IID services if not for a home and community-based services medicaid waiver component.

"Medicaid buy-in for workers with disabilities program" has the same meaning as in section 5163.01 of the Revised Code.

"Medicaid provider" has the same meaning as in section 5164.01 of the Revised Code.

"Medicaid services" has the same meaning as in section 5164.01 of the Revised Code.

"Medicaid waiver component" means a component of the medicaid program authorized by a waiver granted by the United States department of health and human services under the "Social Security Act," section 1115 or 1915, 42 U.S.C. 1315 or 1396n. "Medicaid waiver component" does not include a care management system established under section 5167.03 of the Revised Code.

"Medically fragile child" means an individual who is under eighteen years of age, has intensive health care needs, and is considered blind or disabled under section 1614(a)(2) or (3) of the "Social Security Act," 42 U.S.C. 1382c(a)(2) or (3).

"Nursing facility" and "nursing facility services" have the same meanings as in section 5165.01 of the Revised Code.

"Ohio home care waiver program" means the home and community-based services medicaid waiver component that is known as Ohio home care and was created pursuant to section 5166.11 of the Revised Code.

"Provider agreement" has the same meaning as in section 5164.01 of the Revised Code.

"Residential treatment facility" means a residential facility licensed by the department of mental health and addiction services under section 5119.34 of the Revised Code, or an institution certified by the department of job and family services under section 5103.03 of the Revised Code, that serves children and either has more than sixteen beds or is part of a campus of multiple facilities

or institutions that, combined, have a total of more than sixteen beds.

"Skilled nursing facility" has the same meaning as in section 5165.01 of the Revised Code.

"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5166.14 of the Revised Code.

**Sec. 5166.16.** (A) As used in this section and section 5166.161 of the Revised Code, "ODA or MCD medicaid waiver component" means all of the following:

(1) The medicaid-funded component of the PASSPORT program, unless it is terminated pursuant to division (C) of section 173.52 of the Revised Code;

(2) The medicaid-funded component of the assisted living program, unless it is terminated pursuant to division (C) of section 173.54 of the Revised Code;

(3) The Ohio home care waiver program, unless it is terminated pursuant to section 5166.12 of the Revised Code.

(B) The medicaid director may create a home and community-based services medicaid waiver component as part of the integrated care delivery system. If the ICDS medicaid waiver component is created, both of the following apply:

(1) The department of medicaid shall administer it;

(2) When it begins to accept enrollments, no ICDS participant who is eligible for the ICDS medicaid waiver component shall be enrolled in an ODA or MCD medicaid waiver component regardless of whether the participant prefers to remain or be enrolled in an ODA or MCD medicaid waiver component.

(C) A dual eligible individual who is eligible for an ODA or MCD medicaid waiver component may enroll in the component before the individual becomes an ICDS participant. The dual eligible individual shall disenroll from the ODA or MCD medicaid waiver component and enroll in the ICDS medicaid waiver component once the individual becomes an ICDS participant and it is possible to enroll the individual in the ICDS medicaid waiver component. The disenrollment from the ODA or MCD medicaid waiver component and enrollment into the ICDS medicaid waiver component shall occur regardless of whether the individual prefers to remain enrolled in the ODA or MCD medicaid waiver component.

(D) An ICDS participant's disenrollment from an ODA or MCD medicaid waiver component and enrollment in the ICDS medicaid waiver component resulting from division (B)(2) or (C) of this section shall be accomplished without a disruption in the participant's services under the components.

**Sec. 5166.161.**

**Sec. 5166.24.**

**Sec. 5166.32.**

**Sec. 5166.33.**

**Sec. 5166.40.**

**Sec. 5166.401.**

**Sec. 5166.402.**

**Sec. 5166.403.**

**Sec. 5166.404.**

**Sec. 5166.405.**

**Sec. 5166.406.**

**Sec. 5166.407.****Sec. 5166.408.****Sec. 5166.409.**

**Sec. 5167.03.** As part of the medicaid program, the department of medicaid shall establish a care management system. The department shall implement the system in some or all counties.

The department shall designate the medicaid recipients who are required or permitted to participate in the care management system. Those who shall be required to participate in the system include medicaid recipients who receive cognitive behavioral therapy as described in division (A)(2) of section 5167.16 of the Revised Code. Except as provided in section 5166.406 of the Revised Code, no medicaid recipient participating in the healthy Ohio program established under section 5166.40 of the Revised Code shall participate in the system.

The general assembly's authorization through the enactment of legislation is needed before home and community-based services available under a medicaid waiver component or nursing facility services are included in the care management system, except that ICDS participants may be required or permitted to obtain such services under the system. Medicaid recipients who receive such services may be designated for voluntary or mandatory participation in the system in order to receive other health care services included in the system.

The department may require or permit participants in the care management system to obtain health care services from providers designated by the department. The department may require or permit participants to obtain health care services through medicaid managed care organizations.

**Sec. 5167.04.****Sec. 5167.15.****Sec. 5167.16.****Sec. 5167.17.****Sec. 5167.32.****Sec. 5167.33.**

**Sec. 5168.01.** As used in sections 5168.01 to 5168.14 of the Revised Code:

(A) "Bad debt," "charity care," "courtesy care," and "contractual allowances" have the same meanings given these terms in regulations adopted under Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq.

(B) "Cost reporting period" means the twelve-month period used by a hospital in reporting costs for purposes of Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq.

(C) "Disproportionate share hospital" means a hospital that meets the definition of a disproportionate share hospital in rules adopted under section 5168.02 of the Revised Code.

(D) "Federal poverty line" means the official poverty line defined by the United States office of management and budget based on the most recent data available from the United States bureau of the census and revised by the United States secretary of health and human services pursuant to the "Omnibus Budget Reconciliation Act of 1981," section 673(2), 42 U.S.C. 9902(2).

(E) "Governmental hospital" means a county hospital with more than five hundred registered beds or a state-owned and -operated hospital with more than five hundred registered beds.

(F)(1) "Hospital" means a nonfederal hospital to which either of the following applies:

(a) The hospital is registered under section 3701.07 of the Revised Code as a general medical

and surgical hospital or a pediatric general hospital, and provides inpatient hospital services, as defined in 42 C.F.R. 440.10;

(b) The hospital is recognized under the medicare program as a cancer hospital and is exempt from the medicare prospective payment system.

(2) "Hospital" does not include a hospital operated by a health insuring corporation that has been issued a certificate of authority under section 1751.05 of the Revised Code or a hospital that does not charge patients for services.

(G) "Indigent care pool" means the sum of the following:

(1) The total of assessments to be paid in a program year by all hospitals under section 5168.06 of the Revised Code, less the assessments deposited into the health care/medicaid support and recoveries fund created under section 5162.52 of the Revised Code;

(2) The total amount of intergovernmental transfers required to be made in the same program year by governmental hospitals under section 5168.07 of the Revised Code, less the amount of transfers deposited into the health care/medicaid support and recoveries fund created under section 5162.52 of the Revised Code;

(3) The total amount of federal matching funds that will be made available in the same program year as a result of funds distributed by the department of medicaid to hospitals under section 5168.09 of the Revised Code.

(H) "Intergovernmental transfer" means any transfer of money by a governmental hospital under section 5168.07 of the Revised Code.

(I) "Medicaid services" has the same meaning as in section 5164.01 of the Revised Code.

(J) "Program year" means a period beginning the first day of October, or a later date designated in rules adopted under section 5168.02 of the Revised Code, and ending the thirtieth day of September, or an earlier date designated in rules adopted under that section.

(K) "Registered beds" means the total number of hospital beds registered with the department of health, as reported in the most recent "directory of registered hospitals" published by the department of health.

(L) "Third-party payer" means any person or government entity that may be liable by law or contract to make payment to or on behalf of an individual for health care services. "Third-party payer" does not include a hospital.

(M) "Total facility costs" means the total costs for all services rendered to all patients, including the direct, indirect, and overhead cost to the hospital of all services, supplies, equipment, and capital related to the care of patients, regardless of whether patients are enrolled in a health insuring corporation, excluding costs associated with providing skilled nursing services in distinct-part nursing facility units, as shown on the hospital's cost report filed under section 5168.05 of the Revised Code. Effective October 1, 1993, if rules adopted under section 5168.02 of the Revised Code so provide, "total facility costs" may exclude costs associated with providing care to recipients of any of the governmental programs listed in division (B) of that section.

(N) "Uncompensated care" means bad debt and charity care.

**Sec. 5168.06.** (A) For the purpose of distributing funds to hospitals under the medicaid program pursuant to sections 5168.01 to 5168.14 of the Revised Code and depositing funds into the health care/medicaid support and recoveries fund created under section 5162.52 of the Revised Code,

there is hereby imposed an assessment on all hospitals. Each hospital's assessment shall be based on total facility costs. All hospitals shall be assessed according to the rate or rates established each program year in rules adopted under section 5168.02 of the Revised Code. The department shall assess all hospitals uniformly and in a manner consistent with federal statutes and regulations. During any program year, the department shall not assess any hospital more than two per cent of the hospital's total facility costs.

The department shall establish an assessment rate or rates each program year that will do both of the following:

(1) Yield funds that, when combined with intergovernmental transfers and federal matching funds, will produce a program of sufficient size to pay a substantial portion of the indigent care provided by hospitals;

(2) Yield funds that, when combined with intergovernmental transfers and federal matching funds, will produce amounts for distribution to disproportionate share hospitals that do not exceed, in the aggregate, the limits prescribed by the United States health care financing administration under the "Social Security Act," section 1923(f), 42 U.S.C. 1396r-4(f).

(B)(1) Except as provided in division (B)(3) of this section, each hospital shall pay its assessment in periodic installments in accordance with a schedule established in rules adopted under section 5168.02 of the Revised Code.

(2) The installments shall be equal in amount, unless either of the following applies:

(a) The department makes adjustments during a program year under division (D) of section 5168.08 of the Revised Code in the total amount of hospitals' assessments;

(b) The medicaid director determines that adjustments in the amounts of installments are necessary for the administration of sections 5168.01 to 5168.14 of the Revised Code and that unequal installments will not create cash flow difficulties for hospitals.

(3) The director may adopt rules under section 5168.02 of the Revised Code establishing alternate schedules for hospitals to pay assessments under this section in order to reduce hospitals' cash flow difficulties.

**Sec. 5168.07.** (A) The department of medicaid may require governmental hospitals to make intergovernmental transfers each program year for the purpose of distributing funds to hospitals under the medicaid program pursuant to sections 5168.01 to 5168.14 of the Revised Code and depositing funds into the health care/medicaid support and recoveries fund created under section 5162.52 of the Revised Code. The department shall not require transfers in an amount that, when combined with hospital assessments paid under section 5168.06 of the Revised Code and federal matching funds, produce amounts for distribution to disproportionate share hospitals that, in the aggregate, exceed limits prescribed by the United States health care financing administration under the "Social Security Act," section 1923(f), 42 U.S.C. 1396r-4(f).

(B) Before or during each program year, the department shall notify each governmental hospital of the amount of the intergovernmental transfer it is required to make during the program year. Each governmental hospital shall make intergovernmental transfers as required by the department under this section in periodic installments, executed by electronic fund transfer, in accordance with a schedule established in rules adopted under section 5168.02 of the Revised Code.

**Sec. 5168.10.** Except for moneys deposited into the health care/medicaid support and

recoveries fund created under section 5162.52 of the Revised Code, the department of medicaid shall not use money paid to the department under sections 5168.06 and 5168.07 of the Revised Code or money that the department pays to hospitals under section 5168.09 of the Revised Code to replace any funds appropriated by the general assembly for the medicaid program.

**Sec. 5168.11.** (A) Except as provided in section 5162.52 of the Revised Code, all payments of assessments by hospitals under section 5168.06 of the Revised Code and all intergovernmental transfers under section 5168.07 of the Revised Code shall be deposited in the state treasury to the credit of the hospital care assurance program fund, hereby created. All investment earnings of the hospital care assurance program fund shall be credited to the fund. The department of medicaid shall maintain records that show the amount of money in the hospital care assurance program fund at any time that has been paid by each hospital and the amount of any investment earnings on that amount. All moneys credited to the hospital care assurance program fund shall be used solely to make payments to hospitals under division (D) of this section and section 5168.09 of the Revised Code.

(B) All federal matching funds received as a result of the department distributing funds from the hospital care assurance program fund to hospitals under section 5168.09 of the Revised Code shall be credited to the health care - federal fund created under section 5162.50 of the Revised Code.

(C) All distributions of funds to hospitals under section 5168.09 of the Revised Code are conditional on:

(1) Expiration of the time for appeals under section 5168.08 of the Revised Code without the filing of an appeal, or on court determinations, in the event of appeals, that the hospital is entitled to the funds;

(2) The sum of the following being sufficient to distribute the funds after the final determination of any appeals:

(a) The available money in the hospital care assurance program fund;

(b) The available portion of the money in the health care - federal fund that is credited to that fund pursuant to division (B) of this section.

(3) The hospital's compliance with section 5168.14 of the Revised Code.

(D) If an audit conducted by the department of the amounts of payments made and funds received by hospitals under sections 5168.06, 5168.07, and 5168.09 of the Revised Code identifies amounts that, due to errors by the department, a hospital should not have been required to pay but did pay, should have been required to pay but did not pay, should not have received but did receive, or should have received but did not receive, the department shall:

(1) Make payments to any hospital that the audit reveals paid amounts it should not have been required to pay or did not receive amounts it should have received;

(2) Take action to recover from a hospital any amounts that the audit reveals it should have been required to pay but did not pay or that it should not have received but did receive.

Payments made under division (D)(1) of this section shall be made from the hospital care assurance program fund. Amounts recovered under division (D)(2) of this section shall be deposited to the credit of that fund. Any hospital may appeal the amount the hospital is to be paid under division (D)(1) or the amount that is to be recovered from the hospital under division (D)(2) of this section to the court of common pleas of Franklin county.

**Sec. 5168.23.** Each hospital shall pay the amount it is assessed under section 5168.21 of the



Revised Code in accordance with a payment schedule the department of medicaid shall establish for each assessment program year. The department shall consult with the Ohio hospital association before establishing the payment schedule for any assessment program year. The department shall include the payment schedule in each preliminary determination notice the department mails to hospitals under division (A) of section 5168.22 of the Revised Code.

**Sec. 5168.26.** (A) The medicaid director shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement sections 5168.20 to 5168.28 of the Revised Code, including rules that specify the percentage of hospitals' total facility costs to be used in calculating hospitals' assessments under section 5168.21 of the Revised Code.

(B) The rules adopted under this section may do the following:

(1) Provide that a hospital's total facility costs for the purpose of the assessment under section 5168.21 of the Revised Code exclude any of the following:

(a) A hospital's costs associated with providing care to recipients of any of the following:

(i) The medicaid program;

(ii) The medicare program;

(iii) The program for medically handicapped children established under section 3701.023 of the Revised Code;

(iv) Services provided under the maternal and child health services block grant established under Title V of the "Social Security Act," 42 U.S.C. 701 et seq.

(b) Any other category of hospital costs the director deems appropriate under federal law and regulations governing the medicaid program.

(2) Subject to division (C) of this section, provide for the percentage of hospitals' total facility costs used in calculating hospitals' assessments to vary for different hospitals.

(C) Before adopting rules authorized by division (B)(2) of this section that establish varied percentages to be used in calculating hospitals' assessments, the director shall obtain a waiver from the United States secretary of health and human services under the "Social Security Act," section 1903(w)(3)(E), 42 U.S.C. 1396b(w)(3)(E), if the varied percentages would cause the assessments to not be imposed uniformly.

**Sec. 5168.40.** As used in sections 5168.40 to 5168.56 of the Revised Code:

(A) "Bed surrender" means the following:

(1) In the case of a nursing home, the removal of a bed from a nursing home's licensed capacity in a manner that reduces the total licensed capacity of all nursing homes and makes it impossible for the bed to ever be a part of any nursing home's licensed capacity;

(2) In the case of a hospital, the removal of a hospital bed from registration under section 3701.07 of the Revised Code as a skilled nursing facility bed or long-term care bed in a manner that reduces the total number of hospital beds registered under that section as skilled nursing facility beds or long-term care beds and makes it impossible for the bed to ever be registered as a skilled nursing facility bed or long-term care bed.

(B) "Change of operator" means an entering operator becoming the operator of a nursing home or hospital in the place of the exiting operator.

(1) Actions that constitute a change of operator include the following:

(a) A change in an exiting operator's form of legal organization, including the formation of a

partnership or corporation from a sole proprietorship;

(b) A transfer of all the exiting operator's ownership interest in the operation of the nursing home or hospital to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the nursing home or hospital is also transferred;

(c) A lease of the nursing home or hospital to the entering operator or the exiting operator's termination of the exiting operator's lease;

(d) If the exiting operator is a partnership, dissolution of the partnership;

(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:

(i) The change in composition does not cause the partnership's dissolution under state law.

(ii) The partners agree that the change in composition does not constitute a change in operator.

(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.

(2) The following, alone, do not constitute a change of operator:

(a) A contract for an entity to manage a nursing home or hospital as the operator's agent, subject to the operator's approval of daily operating and management decisions;

(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing home or hospital if an entering operator does not become the operator in place of an exiting operator;

(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.

(C) "Effective date of a change of operator" means the day an entering operator becomes the operator of a nursing home or hospital.

(D) "Entering operator" means the person or government entity that will become the operator of a nursing home or hospital on the effective date of a change of operator.

(E) "Exiting operator" means an operator that will cease to be the operator of a nursing home or hospital on the effective date of a change of operator.

(F) "Franchise permit fee rate" means the rate determined in accordance with section 5168.41 of the Revised Code.

(G) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(H) "Hospital long-term care unit" means any distinct part of a hospital in which any of the following beds are located:

(1) Beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term care beds;

(2) Beds licensed as nursing home beds under section 3721.02 or 3721.09 of the Revised Code.

(I) "Indirect guarantee percentage" means the percentage specified in the "Social Security Act," section 1903(w)(4)(C)(ii), 42 U.S.C. 1396b(w)(4)(C)(ii), that is to be used in determining whether a class of providers is indirectly held harmless for any portion of the costs of a broad-based

health-care-related tax. If the indirect guarantee percentage changes during a fiscal year, the indirect guarantee percentage is the following:

(1) For the part of the fiscal year before the change takes effect, the percentage in effect before the change;

(2) For the part of the fiscal year beginning with the date the indirect guarantee percentage changes, the new percentage.

(J) "Medicaid days" and "nursing facility" have the same meanings as in section 5165.01 of the Revised Code.

(K)(1) "Nursing home" means all of the following:

(a) A nursing home licensed under section 3721.02 or 3721.09 of the Revised Code, including any part of a home for the aging licensed as a nursing home;

(b) A facility or part of a facility, other than a hospital, that is certified as a skilled nursing facility under Title XVIII;

(c) A nursing facility, other than a portion of a hospital certified as a nursing facility.

(2) "Nursing home" does not include either of the following:

(a) A county home, county nursing home, or district home operated pursuant to Chapter 5155. of the Revised Code;

(b) A nursing home maintained and operated by the department of veterans services under section 5907.01 of the Revised Code.

(L) "Operator" means the person or government entity responsible for the daily operating and management decisions for a nursing home or hospital.

(M) "Title XIX" means Title XIX of the "Social Security Act," 42 U.S.C. 1396 et seq.

(N) "Title XVIII" means Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq.

**Sec. 5168.44.** If the United States secretary of health and human services approves the waiver sought under section 5168.43 of the Revised Code, the department of medicaid shall, for each nursing home and hospital that qualifies for a reduction of its franchise permit fee rate under the waiver, reduce the franchise permit fee rate in accordance with the terms of the waiver. For purposes of the first fiscal year during which the waiver takes effect, the department shall determine the amount of the reduction not later than the effective date of the waiver and shall mail to each nursing home and hospital qualifying for the reduction notice of the reduction not later than the last day of the first month of the quarter that begins after the United States secretary approves the waiver. For purposes of subsequent fiscal years, the department shall make such determinations and mail such notices in accordance with section 5168.47 of the Revised Code.

**Sec. 5168.45.** (A) If the United States secretary of health and human services approves the waiver sought under section 5168.43 of the Revised Code, the department of medicaid may do both of the following regarding the franchise permit fee assessed under section 5168.42 of the Revised Code:

(1) Determine how much money the franchise permit fee would have raised in a fiscal year if not for the waiver;

(2) For each nursing home and hospital subject to the franchise permit fee, other than a nursing home or hospital that has its franchise permit fee rate reduced under section 5168.44 of the Revised Code, uniformly increase the amount of the franchise permit fee rate for a fiscal year to an

amount that will have the franchise permit fee raise an amount of money that does not exceed the amount determined under division (A)(1) of this section for that fiscal year.

(B) If the department increases the franchise permit fee rate in accordance with division (A) of this section for the first fiscal year during which the waiver takes effect, the department shall determine the amount of the increase not later than the effective date of the waiver and shall mail to each nursing home and hospital subject to the increase notice of the increase not later than the last day of the first month of the quarter that begins after the United States secretary approves the waiver. If the department increases the franchise permit fee rate in accordance with division (A) of this section for a subsequent fiscal year, the department shall make such determinations and notify the nursing homes and hospitals in accordance with section 5168.47 of the Revised Code.

**Sec. 5168.47.** (A) Not later than the fifteenth day of September of each year, the department of medicaid shall determine the annual franchise permit fee for each nursing home and hospital in accordance with section 5168.42 of the Revised Code and any adjustments made in accordance with sections 5168.44 and 5168.45 of the Revised Code.

(B) Not later than the first day of October of each year, the department shall notify, electronically or by United States postal service, each nursing home and hospital of the amount of the franchise permit fee that has been determined for the nursing home or hospital.

(C) Subject to section 5168.48 of the Revised Code, each nursing home and hospital shall pay its fee under section 5168.42 of the Revised Code, as adjusted in accordance with sections 5168.44 and 5168.45 of the Revised Code, to the department in four installment payments not later than forty-five days after the last day of each October, December, March, and June.

**Sec. 5168.48.** (A) Not later than the last day of February of each year, the department of medicaid shall redetermine each nursing home's and hospital's franchise permit fee if one or more bed surrenders occur during the period beginning on the first day of May of the preceding calendar year and ending on the first day of January of the calendar year in which the redetermination is made.

(B) In redetermining nursing homes' and hospitals' franchise permit fees under this section, the department shall do both of the following:

(1) Provide for the redetermination to be conducted in a manner consistent with the terms of the waiver sought under section 5168.43 of the Revised Code;

(2) Recalculate each nursing home's and hospital's franchise permit fee in accordance with division (A) or (B) of section 5168.42 of the Revised Code with the following changes:

(a) In the case of a nursing home or hospital for which one or more bed surrenders occurred during the period beginning on the first day of May of the preceding calendar year and ending on the first day of January of the calendar year in which the redetermination is made, the number of beds included in the calculation for the purpose of division (A)(1) or (B)(1) of section 5168.42 of the Revised Code shall exclude the beds for which bed surrenders occurred during that period.

(b) The number of days used in the calculation under division (A)(2) or (B)(2) of section 5168.42 of the Revised Code shall be the number of days in the first half of the calendar year in which the redetermination is made.

(c) The franchise permit fee rate shall reflect adjustments made under sections 5168.44 and 5168.45 of the Revised Code.

(C) Not later than the first day of March of each year, the department shall notify,

electronically or by United States postal service, each nursing home and hospital of the amount of its redetermined franchise permit fee.

(D) Each nursing home and hospital shall pay its redetermined fee to the department in two installment payments not later than forty-five days after the last day of March and June of the calendar year in which the redetermination is made.

**Sec. 5168.49.** If a nursing home or hospital undergoes a change of operator during a fiscal year, the responsibility for paying the franchise permit fee that was determined for the nursing home or hospital under section 5168.47 of the Revised Code, or redetermined for the nursing home or hospital under section 5168.48 of the Revised Code, for that fiscal year shall be divided proportionally. The exiting operator shall be responsible for paying the amount of the fee that is for the part of the fiscal year that ends on the day before the effective date of the change of operator. The entering operator shall be responsible for paying the amount of the fee that is for the part of the fiscal year that begins on the effective date of the change of operator. The department of medicaid is not required to notify the entering operator regarding the amount of that fiscal year's fee for which the entering operator is responsible.

**Sec. 5168.53.** (A) A nursing home or hospital may appeal the fee assessed under section 5168.42 of the Revised Code, as adjusted under section 5168.44 or 5168.45 of the Revised Code, and redetermined under section 5168.48 of the Revised Code solely on the grounds that the department of medicaid committed a material error in determining or redetermining the amount of the fee. A request for an appeal must be received by the department not later than fifteen days after the date the department notifies the nursing home or hospital of the fee and must include written materials setting forth the basis for the appeal.

(B) If a nursing home or hospital submits a request for an appeal within the time required under division (A) of this section, the department shall hold a public hearing in Columbus not later than thirty days after the date the department receives the request for an appeal. The department shall, not later than ten days before the date of the hearing, notify, electronically or by United States postal service, the nursing home or hospital of the date, time, and place of the hearing. The department may hear all the requested appeals in one public hearing.

(C) On the basis of the evidence presented at the hearing or any other evidence submitted by the nursing home or hospital, the department may adjust a fee. The department's decision is final.

**Sec. 5168.60.** As used in sections 5168.60 to 5168.71 of the Revised Code:

(A) "Franchise permit fee rate" means the following:

- (1) For fiscal year 2016, eighteen dollars and seven cents;
- (2) For fiscal year 2017 and each fiscal year thereafter, eighteen dollars and two cents.

(B) "Indirect guarantee percentage" means the percentage specified in the "Social Security Act," section 1903(w)(4)(C)(ii), 42 U.S.C. 1396b(w)(4)(C)(ii), that is to be used in determining whether a class of providers is indirectly held harmless for any portion of the costs of a broad-based health-care-related tax. If the indirect guarantee percentage changes during a fiscal year, the indirect guarantee percentage is the following:

- (1) For the part of the fiscal year before the change takes effect, the percentage in effect before the change;
- (2) For the part of the fiscal year beginning with the date the indirect guarantee percentage

changes, the new percentage.

(C) "ICF/IID" has the same meaning as in section 5124.01 of the Revised Code.

(D) "Medicaid-certified capacity" has the same meaning as in section 5124.01 of the Revised Code.

(E) "Provider agreement" has the same meaning as in section 5124.01 of the Revised Code.

**Sec. 5168.63.** (A) Not later than the fifteenth day of August of each year, the department of developmental disabilities shall determine the annual franchise permit fee for each ICF/IID in accordance with section 5168.61 of the Revised Code.

(B) Not later than the first day of September of each year, the department shall notify, electronically or by United States postal service, each ICF/IID of the amount of the franchise permit fee the ICF/IID has been assessed under section 5168.61 of the Revised Code.

(C) Subject to section 5168.64 of the Revised Code, each ICF/IID shall pay its fee under section 5168.61 of the Revised Code to the department in quarterly installment payments not later than forty-five days after the last day of each September, December, March, and June.

**Sec. 5168.64.** (A) If the operator of an ICF/IID converts, pursuant to section 5124.60 or 5124.61 of the Revised Code, all of the ICF/IID's beds to providing home and community-based services and the operator's provider agreement for the ICF/IID is terminated as a consequence, the department of developmental disabilities shall terminate the ICF/IID's franchise permit fee effective on the first day of the quarter immediately following the quarter in which the conversion takes place.

(B)(1) If, during the period beginning on the first day of May of a calendar year and ending on the first day of January of the immediately following calendar year, the operator of an ICF/IID converts, pursuant to section 5124.60 or 5164.61 of the Revised Code, some but not all of the ICF/IID's beds to providing home and community-based services and the ICF/IID's medicaid-certified capacity is reduced as a consequence, the department shall redetermine the ICF/IID's franchise permit fee for the second half of the fiscal year for which the fee is assessed. To redetermine the ICF/IID's franchise permit fee, the department shall multiply the franchise permit fee rate by the product of the following:

(a) The ICF/IID's medicaid-certified capacity as of the date the conversion takes effect;

(b) The number of days in the second half of the fiscal year for which the redetermination is made.

(2) The ICF/IID shall pay its franchise permit fee as redetermined under division (B)(1) of this section in installment payments not later than forty-five days after the last day of March and June of the fiscal year for which the redetermination is made.

**Sec. 5168.67.** (A) An ICF/IID may appeal the franchise permit fee imposed under section 5168.61 of the Revised Code solely on the grounds that the department of developmental disabilities committed a material error in determining the amount of the fee. A request for an appeal must be received by the department not later than fifteen days after the date the department notifies the ICF/IID of the fee and must include written materials setting forth the basis for the appeal.

(B) If an ICF/IID submits a request for an appeal within the time required under division (A) of this section, the department shall hold a public hearing in Columbus not later than thirty days after the date the department receives the request for an appeal. The department shall, not later than ten days before the date of the hearing, notify, electronically or by United States postal service, the

ICF/IID of the date, time, and place of the hearing. The department may hear all requested appeals in one public hearing.

(C) On the basis of the evidence presented at the hearing or any other evidence submitted by the ICF/IID, the department may adjust a fee. The department's decision is final.

**Sec. 5301.68.** An owner of land may grant a conservation easement to the department of natural resources, a park district created under Chapter 1545. of the Revised Code, a township park district created under section 511.18 of the Revised Code, a conservancy district created under Chapter 6101. of the Revised Code, a soil and water conservation district created under Chapter 940. of the Revised Code, a regional water and sewer district created under Chapter 6119. of the Revised Code, a county, a township, a municipal corporation, or a charitable organization that is authorized to hold conservation easements by division (B) of section 5301.69 of the Revised Code, in the form of articles of dedication, easement, covenant, restriction, or condition. An owner of land also may grant an agricultural easement to the director of agriculture; to a municipal corporation, county, township, or soil and water conservation district; or to a charitable organization described in division (B) of section 5301.69 of the Revised Code. An owner of land may grant an agricultural easement only on land that is valued for purposes of real property taxation at its current value for agricultural use under section 5713.31 of the Revised Code or that constitutes a homestead when the easement is granted.

All conservation easements and agricultural easements shall be executed and recorded in the same manner as other instruments conveying interests in land.

**Sec. 5301.69.** (A) The director of natural resources, the board of park commissioners of a park district created under Chapter 1545. of the Revised Code, the board of park commissioners of a township park district created under section 511.18 of the Revised Code, the board of directors of a conservancy district created under Chapter 6101. of the Revised Code, the board of supervisors of a soil and water conservation district created under Chapter 940. of the Revised Code, the board of trustees of a regional water and sewer district created under Chapter 6119. of the Revised Code, the board of county commissioners of a county, the board of township trustees of a township, or the legislative authority of a municipal corporation may acquire conservation easements in the name of the state, the district, or the county, township, or municipal corporation in the same manner as other interests in land may be acquired under section 307.02, 307.18, 505.10, 505.261, 511.23, 717.01, 940.06, 1501.01, 1545.11, 6101.15, or 6119.111 of the Revised Code. Each officer, board, or authority acquiring a conservation easement shall name an appropriate administrative officer, department, or division to supervise and enforce the easement.

(B) A charitable organization may acquire and hold conservation easements if it is exempt from federal taxation under subsection 501(a) and is described in subsection 501(c) of the "Internal Revenue Code of 1954," 68A Stat. 3, 26 U.S.C. 1, as amended, and organized for any of the following purposes: the preservation of land areas for public outdoor recreation or education, or scenic enjoyment; the preservation of historically important land areas or structures; or the protection of natural environmental systems. Such a charitable organization also may acquire and hold agricultural easements subject to the limitation that it may do so only on land that is valued for purposes of real property taxation at its current value for agricultural use under section 5713.31 of the Revised Code or that constitutes a homestead when the easement is granted.

**Sec. 5501.73.** (A) After selecting a solicited or unsolicited proposal for a public-private

initiative, the department of transportation shall enter into a public-private agreement for a transportation facility with the selected private entity or any configuration of private entities. An affected jurisdiction may be a party to a public-private agreement entered into by the department and a selected private entity or combination of private entities.

(B)(1) A public-private agreement under this section shall provide for all of the following:

(a) Planning, acquisition, financing, development, design, construction, reconstruction, replacement, improvement, maintenance, management, repair, leasing, or operation of a transportation facility;

(b) Term of the public-private agreement;

(c) Type of property interest, if any, the private entity will have in the transportation facility;

(d) A specific plan to ensure proper maintenance of the transportation facility throughout the term of the agreement and a return of the facility to the department, if applicable, in good condition and repair;

(e) Whether user fees, administrative fees, or other charges will be collected for use of the transportation facility in accordance with sections 5531.11 to 5531.18 of the Revised Code and the basis by which such user fees, administrative fees, or other charges shall be determined and modified;

(f) Compliance with applicable federal, state, and local laws;

(g) Grounds for termination of the public-private agreement by the department or operator;

(h) Disposition of the facility upon completion of the agreement;

(i) Procedures for amendment of the agreement;

(j) If the agreement contains a construction services component, a contract performance bond executed by a surety authorized by the department of insurance to write surety bonds in an amount specified by the director of transportation, conditioned upon the private entity or contractor performing the construction services portion of the work in accordance with the agreed upon terms, within the time prescribed;

(k) If the agreement contains a construction services component, a payment bond executed by a surety authorized by the department of insurance to write surety bonds in an amount specified by the director, conditioned upon the payment for all labor, work performed, and materials furnished in connection with the construction services portion of the work.

(2) As used in divisions (B)(1)(j) and (k), "construction services" means design-build, construction, reconstruction, replacement, improvement, or repair services.

(C) A public-private agreement under this section may provide for any of the following:

(1) Review and approval by the department of the operator's plans for the development and operation of the transportation facility;

(2) Inspection by the department of construction of or improvements to the transportation facility;

(3) Maintenance by the operator of a policy of liability insurance or self-insurance;

(4) Filing by the operator, on a periodic basis, of appropriate financial statements in a form acceptable to the department;

(5) Filing by the operator, on a periodic basis, of traffic reports in a form acceptable to the department;



- (6) Financing obligations of the operator and the department;
- (7) Apportionment of expenses between the operator and the department;
- (8) Rights and duties of the operator, the department, and other state and local governmental entities with respect to use of the transportation facility;
- (9) Rights and remedies available in the event of default or delay;
- (10) Terms and conditions of indemnification of the operator by the department;
- (11) Assignment, subcontracting, or other delegation of responsibilities of the operator or the department under the agreement to third parties, including other private entities and other state agencies;
- (12) Sale or lease to the operator of private property related to the transportation facility;
- (13) Traffic enforcement and other policing issues, including any reimbursement by the private entity for such services.

(D)(1) The director of transportation may include in any public-private agreement under sections 5501.70 to 5501.83 of the Revised Code a provision authorizing a binding dispute resolution method for any controversy subsequently arising out of the contract. The binding dispute resolution method may proceed only upon agreement of all parties to the controversy. If all parties do not agree to proceed to a binding dispute resolution, a party having a claim against the department shall exhaust its administrative remedies specified in the public-private agreement prior to filing any action against the department in the court of claims.

No appeal from the determination of a technical expert lies to any court, except that the court of common pleas of Franklin County may issue an order vacating such a determination upon the application of any party to the binding dispute resolution if any of the following applies:

- (a) The determination was procured by corruption, fraud, or undue means.
- (b) There was evidence of partiality or corruption on the part of the technical expert.
- (c) The technical expert was guilty of misconduct in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy, or of any other misbehavior by which the rights of any party have been prejudiced.

(2) As used in this division, "binding dispute resolution" means a binding determination after review by a technical expert of all relevant items, which may include documents, and by interviewing appropriate personnel and visiting the project site involved in the controversy. "Binding dispute resolution" does not involve representation by legal counsel or advocacy by any person on behalf of any party to the controversy.

(E) No public-private agreement entered into under this section shall be construed to transfer to a private entity the director's authority to appropriate property under Chapters 163., 5501., and 5519. of the Revised Code.

(F) Money collected by the department pursuant to an agreement entered into under this section shall be deposited into the state treasury to the credit of the highway operating fund unless the agreement is related to a toll project under sections 5531.11 to 5531.18 of the Revised Code, in which case the money shall be deposited as specified in the agreement.

(G) Chapter 5525. of the Revised Code does not apply to public-private agreements under sections 5501.70 to 5501.83 of the Revised Code.

**Sec. 5502.132.**

**Sec. 5505.068.** (A) As used in this section and in section 5505.0610 of the Revised Code:

(1) "Agent" means a dealer, as defined in section 1707.01 of the Revised Code, who is licensed under sections 1707.01 to 1707.45 of the Revised Code or under comparable laws of another state or of the United States.

(2) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code.

(3) "Ohio-qualified agent" means an agent designated as such by the state highway patrol retirement board.

(4) "Ohio-qualified investment manager" means an investment manager designated as such by the state highway patrol retirement board.

(5) "Principal place of business" means an office in which the agent regularly provides securities or investment advisory services and solicits, meets with, or otherwise communicates with clients.

(B) The state highway patrol retirement board shall, for the purposes of this section, designate an agent as an Ohio-qualified agent if the agent meets all of the following requirements:

(1) The agent is subject to taxation under Chapter 5725., 5726., 5733., 5747., or 5751. of the Revised Code.

(2) The agent is authorized to conduct business in this state;

(3) The agent maintains a principal place of business in this state and employs at least five residents of this state.

(C) The state highway patrol retirement board shall adopt and implement a written policy to establish criteria and procedures used to select agents to execute securities transactions on behalf of the retirement system. The policy shall address each of the following:

(1) Commissions charged by the agent, both in the aggregate and on a per share basis;

(2) The execution speed and trade settlement capabilities of the agent;

(3) The responsiveness, reliability, and integrity of the agent;

(4) The nature and value of research provided by the agent;

(5) Any special capabilities of the agent.

(D)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified agents for the execution of domestic equity and fixed income trades on behalf of the retirement system, when an Ohio-qualified agent offers quality, services, and safety comparable to other agents otherwise available to the board and meets the criteria established under division (C) of this section.

(2) The board shall review, at least annually, the performance of the agents that execute securities transactions on behalf of the board.

(3) The board shall determine whether an agent is an Ohio-qualified agent, meets the criteria established by the board pursuant to division (C) of this section, and offers quality, services, and safety comparable to other agents otherwise available to the board. The board's determination shall be final.

**Sec. 5505.0610.** (A) The state highway patrol retirement board shall, for the purposes of this section, designate an investment manager as an Ohio-qualified investment manager if the investment manager meets all of the following requirements:

(1) The investment manager is subject to taxation under Chapter 5725., 5726., 5733., 5747., or 5751. of the Revised Code.

(2) The investment manager meets one of the following requirements:

- (a) Has its corporate headquarters or principal place of business in this state;
- (b) Employs at least five hundred individuals in this state;
- (c) Has a principal place of business in this state and employs at least twenty residents of this state.

(B)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified investment managers, when an Ohio-qualified investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The policy shall also provide for the following:

(a) A process whereby the board can develop a list of Ohio-qualified investment managers and their investment products;

(b) A process whereby the board can give public notice to Ohio-qualified investment managers of the board's search for an investment manager that includes the board's search criteria.

(2) The board shall determine whether an investment manager is an Ohio-qualified investment manager and whether the investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The board's determination shall be final.

**Sec. 5505.22.** The right of any individual to a pension, or to the return of accumulated contributions, payable as provided under this chapter, and all moneys and investments of the state highway patrol retirement system and income from moneys or investments are exempt from any state tax, except the tax imposed by section 5747.02 of the Revised Code, and are exempt from any county, municipal, or other local tax, except income taxes imposed pursuant to section 5748.02, 5748.08, or 5748.09 of the Revised Code, and, except as provided in sections 3105.171, 3105.65, 3115.501, 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, 5505.26, 5505.262, and 5505.263 of the Revised Code, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever, and shall be unassignable except as specifically provided in this chapter.

**Sec. 5505.261.** (A) As used in this section, "alternate payee," "benefit," "lump sum payment," "participant," and "public retirement program" have the same meanings as in section 3105.80 of the Revised Code.

(B) On receipt of an order issued under section 3105.171 or 3105.65 of the Revised Code, the state highway patrol retirement system shall determine whether the order meets the requirements of sections 3105.80 to 3105.90 of the Revised Code. The system shall retain in the participant's record an order the system determines meets the requirements. Not later than sixty days after receipt, the system shall return to the court that issued the order any order the system determines does not meet the requirements.

(C) The system shall comply with an order retained under division (B) of this section at either of the following times as appropriate:

(1) If the participant has applied for or is receiving a benefit or has applied for but not yet received a lump sum payment, as soon as practicable;

(2) If the participant has not applied for a benefit or lump sum payment, on application by the participant for a benefit or lump sum payment.

(D) If the system transfers a participant's service credit or contributions made by or on behalf of a participant to a public retirement program that is not named in the order, the system shall do both of the following:

(1) Notify the court that issued the order by sending the court a copy of the order and the name and address of the public retirement program to which the transfer was made.

(2) Send a copy of the order to the public retirement program to which the transfer was made.

(E) If it receives a participant's service credit or contributions and a copy of an order as provided in division (D) of this section, the system shall administer the order as if it were the public retirement program named in the order.

(F) If a participant's benefit or lump sum payment is or will be subject to more than one order described in section 3105.81 of the Revised Code or to an order described in section 3105.81 of the Revised Code and a withholding order under section 3111.23 or 3113.21 of the Revised Code, the system shall, after determining that the amounts that are or will be withheld will cause the benefit or lump sum payment to fall below the limits described in section 3105.85 of the Revised Code, do all of the following:

(1) Establish, in accordance with division (G) of this section and subject to the limits described in section 3105.85 of the Revised Code, the priority in which the orders are or will be paid by the retirement system in accordance with division (G) of this section;

(2) Reduce the amount paid to an alternate payee based on the priority established under division (F)(1) of this section;

(3) Notify, by regular mail, a participant and alternate payee of any action taken under this division.

(G) A withholding or deduction notice issued under section 3111.23 or 3113.21 of the Revised Code or an order described in section 3115.501 of the Revised Code has priority over all other orders and shall be complied with in accordance with child support enforcement laws. All other orders are entitled to priority in order of earliest retention by the system. The system is not to retain an order that provides for the division of property unless the order is filed in a court with jurisdiction in this state.

(H) The system is not liable in civil damages for loss resulting from any action or failure to act in compliance with this section.

**Sec. 5513.01.** (A) The director of transportation shall make all purchases of machinery, materials, supplies, or other articles in the manner provided in this section. In all cases except those in which the director provides written authorization for purchases by district deputy directors of transportation, the director shall make all such purchases at the central office of the department of transportation in Columbus. Before making any purchase at that office, the director, as provided in this section, shall give notice to bidders of the director's intention to purchase. Where the expenditure does not exceed the amount applicable to the purchase of supplies specified in division (A) of section 125.05 of the Revised Code, the director shall give such notice as the director considers proper, or the director may make the purchase without notice. Where the expenditure exceeds the amount applicable to the purchase of supplies specified in division (A) of section 125.05 of the Revised

Code, the director shall give notice by posting for not less than ten days a written, typed, or printed invitation to bidders on a bulletin board. The director shall locate the notice in a place in the offices assigned to the department and open to the public during business hours.

Producers or distributors of any product may notify the director, in writing, of the class of articles for the furnishing of which they desire to bid and their post-office addresses. In that circumstance, the director shall mail copies of all invitations to bidders relating to the purchase of such articles to such persons by regular first class mail at least ten days prior to the time fixed for taking bids. The director also may mail copies of all invitations to bidders to news agencies or other agencies or organizations distributing information of this character. Requests for invitations are not valid and do not require action by the director unless renewed by the director, either annually or after such shorter period as the director may prescribe by a general rule.

The director shall include in an invitation to bidders a brief statement of the general character of the article that it is intended to purchase, the approximate quantity desired, and a statement of the time and place where bids will be received, and may relate to and describe as many different articles as the director thinks proper, it being the intent and purpose of this section to authorize the inclusion in a single invitation of as many different articles as the director desires to invite bids upon at any given time. The director shall give invitations issued during each calendar year consecutive numbers, and ensure that the number assigned to each invitation appears on all copies thereof. In all cases where notice is required by this section, the director shall require sealed bids, on forms prescribed and furnished by the director. The director shall not permit the modification of bids after they have been opened.

(B) The director may permit a state agency, the Ohio turnpike and infrastructure commission, any political subdivision, and any state university or college to participate in contracts into which the director has entered for the purchase of machinery, materials, supplies, or other articles. The turnpike and infrastructure commission and any political subdivision or state university or college desiring to participate in such purchase contracts shall file with the director a certified copy of the bylaws or rules of the turnpike and infrastructure commission or the ordinance or resolution of the legislative authority, board of trustees, or other governing board requesting authorization to participate in such contracts and agreeing to be bound by such terms and conditions as the director prescribes. Purchases made by a state agency, the turnpike and infrastructure commission, political subdivisions, or state universities or colleges under this division are exempt from any competitive bidding required by law for the purchase of machinery, materials, supplies, or other articles.

(C) As used in this section:

(1) "Political subdivision" means any county, township, municipal corporation, conservancy district, township park district, park district created under Chapter 1545. of the Revised Code, port authority, regional transit authority, regional airport authority, regional water and sewer district, county transit board, school district as defined in section 5513.04 of the Revised Code, regional planning commission formed under section 713.21 of the Revised Code, regional council of government formed under section 167.01 of the Revised Code, or other association of local governments established pursuant to an agreement under sections 307.14 to 307.19 of the Revised Code.

(2) "State university or college" has the same meaning as in division (A)(1) of section

3345.32 of the Revised Code.

(3) "Ohio turnpike and infrastructure commission" means the commission created by section 5537.02 of the Revised Code.

(4) "State agency" means every organized body, office, board, authority, commission, or agency established by the laws of the state for the exercise of any governmental or quasi-governmental function of state government, regardless of the funding source for that entity, other than any state institution of higher education, the office of the governor, lieutenant governor, auditor of state, treasurer of state, secretary of state, or attorney general, the general assembly, the courts or any judicial agency, or any state retirement system or retirement program established by or referenced in the Revised Code.

**Sec. 5537.05.** (A) The Ohio turnpike and infrastructure commission may construct grade separations at intersections of any turnpike project with public roads and railroads, and change and adjust the lines and grades of those roads and railroads, and of public utility facilities, which change and adjustment of lines and grades of those roads shall be subject to the approval of the governmental agency having jurisdiction over the road, so as to accommodate them to the design of the grade separation. The cost of the grade separation and any damage incurred in changing and adjusting the lines and grades of roads, railroads, and public utility facilities shall be ascertained and paid by the commission as a part of the cost of the turnpike project or from revenues or state taxes.

(1) If the commission finds it necessary to change the location of any portion of any public road, railroad, or public utility facility, it shall cause the same to be reconstructed at the location the governmental agency having jurisdiction over such road, railroad, or public utility facility considers most favorable. The construction shall be of substantially the same type and in as good condition as the original road, railroad, or public utility facility. The cost of the reconstruction, relocation, or removal and any damage incurred in changing the location shall be ascertained and paid by the commission as a part of the cost of the turnpike project or from revenues or state taxes.

(2) The commission may petition the board of county commissioners of the county in which is situated any public road or part thereof affected by the location therein of any turnpike project, for the vacation or relocation of the road or any part thereof, in the same manner and with the same force and effect as is given to the director of transportation pursuant to sections 5553.04 to 5553.11 of the Revised Code.

(B) The commission and its authorized agents and employees, after proper notice, may enter upon any lands, waters, and premises in the state for the purpose of making surveys, soundings, drillings, and examinations that are necessary or proper for the purposes of this chapter, and the entry shall not be deemed a trespass, nor shall an entry for those purposes be deemed an entry under any appropriation proceedings which may then be pending, provided that before entering upon the premises of any railroad notice shall be given to the superintendent of the railroad involved at least five days in advance of entry, and provided that no survey, sounding, drilling, and examination shall be made between the rails or so close to a railroad track as would render the track unusable. The commission shall make reimbursement for any actual damage resulting to such lands, waters, and premises and to private property located in, on, along, over, or under such lands, waters, and premises, as a result of such activities. The state, subject to the approval of the governor, hereby consents to the use of all lands owned by it, including lands lying under water, that are necessary or

proper for the construction, maintenance, or operation of any turnpike project, provided adequate consideration is provided for the use.

(C) The commission may make reasonable provisions or rules for the installation, construction, maintenance, repair, renewal, relocation, and removal of public utility facilities in, on, along, over, or under any turnpike project. Whenever the commission determines that it is necessary that any public utility facilities located in, on, along, over, or under any turnpike project should be relocated in or removed from the turnpike project, the public utility owning or operating the facilities shall relocate or remove them in accordance with the order of the commission. Except as otherwise provided in any license or other agreement with the commission, the cost and expenses of such relocation or removal, including the cost of installing the facilities in a new location, the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish the relocation or removal, shall be ascertained and paid by the commission as part of the cost of the turnpike project or from revenues of the Ohio turnpike system. In case of any such relocation or removal of facilities, the public utility owning or operating them and its successors or assigns may maintain and operate the facilities, with the necessary appurtenances, in the new location, for as long a period, and upon the same terms, as it had the right to maintain and operate the facilities in their former location.

(D) The commission is subject to Chapters 940., 6131., 6133., 6135., and 6137. of the Revised Code and shall pay any assessments levied under those chapters for an improvement or maintenance of an improvement on land under the control or ownership of the commission.

**Sec. 5575.01.** (A) In the maintenance and repair of roads, the board of township trustees may proceed either by contract or force account, but, unless the exemption specified in division (C) of this section applies, if the board wishes to proceed by force account, it first shall cause the county engineer to complete the force account assessment form developed by the auditor of state under section 117.16 of the Revised Code. Except as otherwise provided in sections 505.08 and 505.101 of the Revised Code, when the board proceeds by contract, the contract shall, if the amount involved exceeds forty-five thousand dollars, be let by the board to the lowest responsible bidder after advertisement for bids once, not later than two weeks, prior to the date fixed for the letting of the contract, in a newspaper of general circulation within the township. If the amount involved is forty-five thousand dollars or less, a contract may be let without competitive bidding, or the work may be done by force account. Such a contract shall be performed under the supervision of a member of the board or the township road superintendent.

(B) Before undertaking the construction or reconstruction of a township road, the board shall cause to be made by the county engineer an estimate of the cost of the work, which estimate shall include labor, material, freight, fuel, hauling, use of machinery and equipment, and all other items of cost. If the board finds it in the best interest of the public, it may, in lieu of constructing the road by contract, proceed to construct the road by force account. Except as otherwise provided under sections 505.08 and 505.101 of the Revised Code, where the total estimated cost of the work exceeds fifteen thousand dollars per mile, the board shall invite and receive competitive bids for furnishing all the labor, materials, and equipment and doing the work, as provided in section 5575.02 of the Revised Code, and shall consider and reject them before ordering the work done by force account. When such bids are received, considered, and rejected, and the work is done by force account, the work shall be performed in compliance with the plans and specifications upon which the bids were based.

(C) Force account assessment forms are not required under division (A) of this section for road maintenance or repair projects of less than fifteen thousand dollars, or under division (B) of this section for road construction or reconstruction projects of less than five thousand dollars per mile.

(D) All force account work under this section shall be done under the direction of a member of the board or the township road superintendent.

**Sec. 5703.057.** (A) For the efficient administration of the taxes and fees administered by the tax commissioner, the commissioner may require that any person filing a tax document with the department of taxation provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the commissioner. A person required by the commissioner to provide identifying information who has experienced any change with respect to that information shall notify the commissioner of the change prior to, or upon, filing the next tax document requiring such identifying information.

(B) When transmitting or otherwise making use of a tax document that contains a person's social security number, the commissioner shall take all reasonable measures necessary to ensure that the number is not capable of being viewed by the general public, including, when necessary, masking the number so that it is not readily discernible by the general public.

(C)(1) If the commissioner makes a request for identifying information and the commissioner does not receive valid identifying information within thirty days of making the request, the commissioner may impose a penalty upon the person to whom the request was directed of up to one hundred dollars. If, after the expiration of this thirty day period, the commissioner makes one or more subsequent requests for identifying information and the person to whom the subsequent request is directed fails to provide valid identifying information within thirty days of the commissioner's subsequent request, the commissioner may impose an additional penalty of up to two hundred dollars for each subsequent request not complied with in a timely fashion.

(2) If a person required by the commissioner to provide identifying information does not notify the commissioner of a change with respect to that information as required under division (A) of this section within thirty days after filing the next tax document requiring such identifying information, the commissioner may impose a penalty of up to fifty dollars.

(3) The penalties provided for under divisions (C)(1) and (2) of this section may be billed and assessed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in division (D) of this section and any other penalties that may be imposed by the commissioner by law.

(D) Section 5703.26 of the Revised Code applies with respect to false or fraudulent identifying information provided by a person to the commissioner under this section.

**Sec. 5703.21.** (A) Except as provided in divisions (B) and (C) of this section, no agent of the department of taxation, except in the agent's report to the department or when called on to testify in any court or proceeding, shall divulge any information acquired by the agent as to the transactions, property, or business of any person while acting or claiming to act under orders of the department. Whoever violates this provision shall thereafter be disqualified from acting as an officer or employee or in any other capacity under appointment or employment of the department.

(B)(1) For purposes of an audit pursuant to section 117.15 of the Revised Code, or an audit of the department pursuant to Chapter 117. of the Revised Code, or an audit, pursuant to that chapter,



the objective of which is to express an opinion on a financial report or statement prepared or issued pursuant to division (A)(7) or (9) of section 126.21 of the Revised Code, the officers and employees of the auditor of state charged with conducting the audit shall have access to and the right to examine any state tax returns and state tax return information in the possession of the department to the extent that the access and examination are necessary for purposes of the audit. Any information acquired as the result of that access and examination shall not be divulged for any purpose other than as required for the audit or unless the officers and employees are required to testify in a court or proceeding under compulsion of legal process. Whoever violates this provision shall thereafter be disqualified from acting as an officer or employee or in any other capacity under appointment or employment of the auditor of state.

(2) For purposes of an internal audit pursuant to section 126.45 of the Revised Code, the officers and employees of the office of internal audit in the office of budget and management charged with directing the internal audit shall have access to and the right to examine any state tax returns and state tax return information in the possession of the department to the extent that the access and examination are necessary for purposes of the internal audit. Any information acquired as the result of that access and examination shall not be divulged for any purpose other than as required for the internal audit or unless the officers and employees are required to testify in a court or proceeding under compulsion of legal process. Whoever violates this provision shall thereafter be disqualified from acting as an officer or employee or in any other capacity under appointment or employment of the office of internal audit.

(3) As provided by section 6103(d)(2) of the Internal Revenue Code, any federal tax returns or federal tax information that the department has acquired from the internal revenue service, through federal and state statutory authority, may be disclosed to the auditor of state or the office of internal audit solely for purposes of an audit of the department.

(4) For purposes of Chapter 3739. of the Revised Code, an agent of the department of taxation may share information with the division of state fire marshal that the agent finds during the course of an investigation.

(C) Division (A) of this section does not prohibit any of the following:

(1) Divulging information contained in applications, complaints, and related documents filed with the department under section 5715.27 of the Revised Code or in applications filed with the department under section 5715.39 of the Revised Code;

(2) Providing information to the office of child support within the department of job and family services pursuant to section 3125.43 of the Revised Code;

(3) Disclosing to the motor vehicle repair board any information in the possession of the department that is necessary for the board to verify the existence of an applicant's valid vendor's license and current state tax identification number under section 4775.07 of the Revised Code;

(4) Providing information to the administrator of workers' compensation pursuant to sections 4123.271 and 4123.591 of the Revised Code;

(5) Providing to the attorney general information the department obtains under division (J) of section 1346.01 of the Revised Code;

(6) Permitting properly authorized officers, employees, or agents of a municipal corporation from inspecting reports or information pursuant to section 718.84 of the Revised Code or rules

adopted under section 5745.16 of the Revised Code;

(7) Providing information regarding the name, account number, or business address of a holder of a vendor's license issued pursuant to section 5739.17 of the Revised Code, a holder of a direct payment permit issued pursuant to section 5739.031 of the Revised Code, or a seller having a use tax account maintained pursuant to section 5741.17 of the Revised Code, or information regarding the active or inactive status of a vendor's license, direct payment permit, or seller's use tax account;

(8) Releasing invoices or invoice information furnished under section 4301.433 of the Revised Code pursuant to that section;

(9) Providing to a county auditor notices or documents concerning or affecting the taxable value of property in the county auditor's county. Unless authorized by law to disclose documents so provided, the county auditor shall not disclose such documents;

(10) Providing to a county auditor sales or use tax return or audit information under section 333.06 of the Revised Code;

(11) Subject to section 4301.441 of the Revised Code, disclosing to the appropriate state agency information in the possession of the department of taxation that is necessary to verify a permit holder's gallonage or noncompliance with taxes levied under Chapter 4301. or 4305. of the Revised Code;

(12) Disclosing to the department of natural resources information in the possession of the department of taxation that is necessary for the department of taxation to verify the taxpayer's compliance with section 5749.02 of the Revised Code or to allow the department of natural resources to enforce Chapter 1509. of the Revised Code;

(13) Disclosing to the department of job and family services, industrial commission, and bureau of workers' compensation information in the possession of the department of taxation solely for the purpose of identifying employers that misclassify employees as independent contractors or that fail to properly report and pay employer tax liabilities. The department of taxation shall disclose only such information that is necessary to verify employer compliance with law administered by those agencies.

(14) Disclosing to the Ohio casino control commission information in the possession of the department of taxation that is necessary to verify a casino operator's compliance with section 5747.063 or 5753.02 of the Revised Code and sections related thereto;

(15) Disclosing to the state lottery commission information in the possession of the department of taxation that is necessary to verify a lottery sales agent's compliance with section 5747.064 of the Revised Code.

(16) Disclosing to the development services agency information in the possession of the department of taxation that is necessary to ensure compliance with the laws of this state governing taxation and to verify information reported to the development services agency for the purpose of evaluating potential tax credits, grants, or loans. Such information shall not include information received from the internal revenue service the disclosure of which is prohibited by section 6103 of the Internal Revenue Code. No officer, employee, or agent of the development services agency shall disclose any information provided to the development services agency by the department of taxation under division (C)(16) of this section except when disclosure of the information is necessary for, and

made solely for the purpose of facilitating, the evaluation of potential tax credits, grants, or loans.

(17) Disclosing to the department of insurance information in the possession of the department of taxation that is necessary to ensure a taxpayer's compliance with the requirements with any tax credit administered by the development services agency and claimed by the taxpayer against any tax administered by the superintendent of insurance. No officer, employee, or agent of the department of insurance shall disclose any information provided to the department of insurance by the department of taxation under division (C)(17) of this section.

(18) Disclosing to the division of liquor control information in the possession of the department of taxation that is necessary for the division and department to comply with the requirements of sections 4303.26 and 4303.271 of the Revised Code;

**Sec. 5703.36.** If any company, firm, corporation, person, association, partnership, or public utility fails to make out and deliver to the tax commissioner any statement required by law, or to furnish the commissioner with any information requested, the commissioner shall ~~inform himself~~ become informed as best ~~he~~ the commissioner can on the matters necessary to be known in order to discharge ~~his~~ the commissioner's duties.

**Sec. 5703.361.**

**Sec. 5703.85.**

**Sec. 5705.19.** This section does not apply to school districts, county school financing districts, or lake facilities authorities.

The taxing authority of any subdivision at any time and in any year, by vote of two-thirds of all the members of the taxing authority, may declare by resolution and certify the resolution to the board of elections not less than ninety days before the election upon which it will be voted that the amount of taxes that may be raised within the ten-mill limitation will be insufficient to provide for the necessary requirements of the subdivision and that it is necessary to levy a tax in excess of that limitation for any of the following purposes:

(A) For current expenses of the subdivision, except that the total levy for current expenses of a detention facility district or district organized under section 2151.65 of the Revised Code shall not exceed two mills and that the total levy for current expenses of a combined district organized under sections 2151.65 and 2152.41 of the Revised Code shall not exceed four mills;

(B) For the payment of debt charges on certain described bonds, notes, or certificates of indebtedness of the subdivision issued subsequent to January 1, 1925;

(C) For the debt charges on all bonds, notes, and certificates of indebtedness issued and authorized to be issued prior to January 1, 1925;

(D) For a public library of, or supported by, the subdivision under whatever law organized or authorized to be supported;

(E) For a municipal university, not to exceed two mills over the limitation of one mill prescribed in section 3349.13 of the Revised Code;

(F) For the construction or acquisition of any specific permanent improvement or class of improvements that the taxing authority of the subdivision may include in a single bond issue;

(G) For the general construction, reconstruction, resurfacing, and repair of streets, roads, and bridges in municipal corporations, counties, or townships;

(H) For parks and recreational purposes;

(I) For providing and maintaining fire apparatus, mechanical resuscitators, underwater rescue and recovery equipment, or other fire equipment and appliances, buildings and sites therefor, or sources of water supply and materials therefor, for the establishment and maintenance of lines of fire-alarm communications, for the payment of firefighting companies or permanent, part-time, or volunteer firefighting, emergency medical service, administrative, or communications personnel to operate the same, including the payment of any employer contributions required for such personnel under section 145.48 or 742.34 of the Revised Code, for the purchase of ambulance equipment, for the provision of ambulance, paramedic, or other emergency medical services operated by a fire department or firefighting company, or for the payment of other related costs;

(J) For providing and maintaining motor vehicles, communications, other equipment, buildings, and sites for such buildings used directly in the operation of a police department, for the payment of salaries of permanent or part-time police, communications, or administrative personnel to operate the same, including the payment of any employer contributions required for such personnel under section 145.48 or 742.33 of the Revised Code, for the payment of the costs incurred by townships as a result of contracts made with other political subdivisions in order to obtain police protection, for the provision of ambulance or emergency medical services operated by a police department, or for the payment of other related costs;

(K) For the maintenance and operation of a county home or detention facility;

(L) For community developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code, except that such levies shall be subject to the procedures and requirements of section 5705.222 of the Revised Code;

(M) For regional planning;

(N) For a county's share of the cost of maintaining and operating schools, district detention facilities, forestry camps, or other facilities, or any combination thereof, established under section 2151.65 or 2152.41 of the Revised Code or both of those sections;

(O) For providing for flood defense, providing and maintaining a flood wall or pumps, and other purposes to prevent floods;

(P) For maintaining and operating sewage disposal plants and facilities;

(Q) For the purpose of purchasing, acquiring, constructing, enlarging, improving, equipping, repairing, maintaining, or operating, or any combination of the foregoing, a county transit system pursuant to sections 306.01 to 306.13 of the Revised Code, or of making any payment to a board of county commissioners operating a transit system or a county transit board pursuant to section 306.06 of the Revised Code;

(R) For the subdivision's share of the cost of acquiring or constructing any schools, forestry camps, detention facilities, or other facilities, or any combination thereof, under section 2151.65 or 2152.41 of the Revised Code or both of those sections;

(S) For the prevention, control, and abatement of air pollution;

(T) For maintaining and operating cemeteries;

(U) For providing ambulance service, emergency medical service, or both;

(V) For providing for the collection and disposal of garbage or refuse, including yard waste;

(W) For the payment of the police officer employers' contribution or the firefighter employers' contribution required under sections 742.33 and 742.34 of the Revised Code;

(X) For the construction and maintenance of a drainage improvement pursuant to section 6131.52 of the Revised Code;

(Y) For providing or maintaining senior citizens services or facilities as authorized by section 307.694, 307.85, 505.70, or 505.706 or division (EE) of section 717.01 of the Revised Code;

(Z) For the provision and maintenance of zoological park services and facilities as authorized under section 307.76 of the Revised Code;

(AA) For the maintenance and operation of a free public museum of art, science, or history;

(BB) For the establishment and operation of a 9-1-1 system, as defined in section 128.01 of the Revised Code;

(CC) For the purpose of acquiring, rehabilitating, or developing rail property or rail service. As used in this division, "rail property" and "rail service" have the same meanings as in section 4981.01 of the Revised Code. This division applies only to a county, township, or municipal corporation.

(DD) For the purpose of acquiring property for, constructing, operating, and maintaining community centers as provided for in section 755.16 of the Revised Code;

(EE) For the creation and operation of an office or joint office of economic development, for any economic development purpose of the office, and to otherwise provide for the establishment and operation of a program of economic development pursuant to sections 307.07 and 307.64 of the Revised Code, or to the extent that the expenses of a county land reutilization corporation organized under Chapter 1724. of the Revised Code are found by the board of county commissioners to constitute the promotion of economic development, for the payment of such operations and expenses;

(FF) For the purpose of acquiring, establishing, constructing, improving, equipping, maintaining, or operating, or any combination of the foregoing, a township airport, landing field, or other air navigation facility pursuant to section 505.15 of the Revised Code;

(GG) For the payment of costs incurred by a township as a result of a contract made with a county pursuant to section 505.263 of the Revised Code in order to pay all or any part of the cost of constructing, maintaining, repairing, or operating a water supply improvement;

(HH) For a board of township trustees to acquire, other than by appropriation, an ownership interest in land, water, or wetlands, or to restore or maintain land, water, or wetlands in which the board has an ownership interest, not for purposes of recreation, but for the purposes of protecting and preserving the natural, scenic, open, or wooded condition of the land, water, or wetlands against modification or encroachment resulting from occupation, development, or other use, which may be styled as protecting or preserving "greenspace" in the resolution, notice of election, or ballot form. Except as otherwise provided in this division, land is not acquired for purposes of recreation, even if the land is used for recreational purposes, so long as no building, structure, or fixture used for recreational purposes is permanently attached or affixed to the land. Except as otherwise provided in this division, land that previously has been acquired in a township for these greenspace purposes may subsequently be used for recreational purposes if the board of township trustees adopts a resolution approving that use and no building, structure, or fixture used for recreational purposes is permanently attached or affixed to the land. The authorization to use greenspace land for recreational use does not apply to land located in a township that had a population, at the time it passed its first greenspace levy, of more than thirty-eight thousand within a county that had a population, at that time, of at least

eight hundred sixty thousand.

(II) For the support by a county of a crime victim assistance program that is provided and maintained by a county agency or a private, nonprofit corporation or association under section 307.62 of the Revised Code;

(JJ) For any or all of the purposes set forth in divisions (I) and (J) of this section. This division applies only to a municipal corporation or a township.

(KK) For a countywide public safety communications system under section 307.63 of the Revised Code. This division applies only to counties.

(LL) For the support by a county of criminal justice services under section 307.45 of the Revised Code;

(MM) For the purpose of maintaining and operating a jail or other detention facility as defined in section 2921.01 of the Revised Code;

(NN) For purchasing, maintaining, or improving, or any combination of the foregoing, real estate on which to hold, and the operating expenses of, agricultural fairs operated by a county agricultural society or independent agricultural society under Chapter 1711. of the Revised Code. This division applies only to a county.

(OO) For constructing, rehabilitating, repairing, or maintaining sidewalks, walkways, trails, bicycle pathways, or similar improvements, or acquiring ownership interests in land necessary for the foregoing improvements;

(PP) For both of the purposes set forth in divisions (G) and (OO) of this section.

(QQ) For both of the purposes set forth in divisions (H) and (HH) of this section. This division applies only to a township.

(RR) For the legislative authority of a municipal corporation, board of county commissioners of a county, or board of township trustees of a township to acquire agricultural easements, as defined in section 5301.67 of the Revised Code, and to supervise and enforce the easements.

(SS) For both of the purposes set forth in divisions (BB) and (KK) of this section. This division applies only to a county.

(TT) For the maintenance and operation of a facility that is organized in whole or in part to promote the sciences and natural history under section 307.761 of the Revised Code.

(UU) For the creation and operation of a county land reutilization corporation and for any programs or activities of the corporation found by the board of directors of the corporation to be consistent with the purposes for which the corporation is organized;

(VV) For construction and maintenance of improvements and expenses of soil and water conservation district programs under Chapter 940. of the Revised Code;

(WW) For the OSU extension fund created under section 3335.35 of the Revised Code for the purposes prescribed under section 3335.36 of the Revised Code for the benefit of the citizens of a county. This division applies only to a county.

(XX) For a municipal corporation that withdraws or proposes by resolution to withdraw from a regional transit authority under section 306.55 of the Revised Code to provide transportation services for the movement of persons within, from, or to the municipal corporation;

(YY) For any combination of the purposes specified in divisions (NN), (VV), and (WW) of this section. This division applies only to a county.

The resolution shall be confined to the purpose or purposes described in one division of this section, to which the revenue derived therefrom shall be applied. The existence in any other division of this section of authority to levy a tax for any part or all of the same purpose or purposes does not preclude the use of such revenues for any part of the purpose or purposes of the division under which the resolution is adopted.

The resolution shall specify the amount of the increase in rate that it is necessary to levy, the purpose of that increase in rate, and the number of years during which the increase in rate shall be in effect, which may or may not include a levy upon the duplicate of the current year. The number of years may be any number not exceeding five, except as follows:

(1) When the additional rate is for the payment of debt charges, the increased rate shall be for the life of the indebtedness.

(2) When the additional rate is for any of the following, the increased rate shall be for a continuing period of time:

(a) For the current expenses for a detention facility district, a district organized under section 2151.65 of the Revised Code, or a combined district organized under sections 2151.65 and 2152.41 of the Revised Code;

(b) For providing a county's share of the cost of maintaining and operating schools, district detention facilities, forestry camps, or other facilities, or any combination thereof, established under section 2151.65 or 2152.41 of the Revised Code or under both of those sections.

(3) When the additional rate is for either of the following, the increased rate may be for a continuing period of time:

(a) For the purposes set forth in division (I), (J), (U), or (KK) of this section;

(b) For the maintenance and operation of a joint recreation district.

(4) When the increase is for the purpose or purposes set forth in division (D), (G), (H), (T), (Z), (CC), or (PP) of this section, the tax levy may be for any specified number of years or for a continuing period of time, as set forth in the resolution.

A levy for one of the purposes set forth in division (G), (I), (J), or (U) of this section may be reduced pursuant to section 5705.261 or 5705.31 of the Revised Code. A levy for one of the purposes set forth in division (G), (I), (J), or (U) of this section may also be terminated or permanently reduced by the taxing authority if it adopts a resolution stating that the continuance of the levy is unnecessary and the levy shall be terminated or that the millage is excessive and the levy shall be decreased by a designated amount.

A resolution of a detention facility district, a district organized under section 2151.65 of the Revised Code, or a combined district organized under both sections 2151.65 and 2152.41 of the Revised Code may include both current expenses and other purposes, provided that the resolution shall apportion the annual rate of levy between the current expenses and the other purpose or purposes. The apportionment need not be the same for each year of the levy, but the respective portions of the rate actually levied each year for the current expenses and the other purpose or purposes shall be limited by the apportionment.

Whenever a board of county commissioners, acting either as the taxing authority of its county or as the taxing authority of a sewer district or subdistrict created under Chapter 6117. of the Revised Code, by resolution declares it necessary to levy a tax in excess of the ten-mill limitation for the

purpose of constructing, improving, or extending sewage disposal plants or sewage systems, the tax may be in effect for any number of years not exceeding twenty, and the proceeds of the tax, notwithstanding the general provisions of this section, may be used to pay debt charges on any obligations issued and outstanding on behalf of the subdivision for the purposes enumerated in this paragraph, provided that any such obligations have been specifically described in the resolution.

A resolution adopted by the legislative authority of a municipal corporation that is for the purpose in division (XX) of this section may be combined with the purpose provided in section 306.55 of the Revised Code, by vote of two-thirds of all members of the legislative authority. The legislative authority may certify the resolution to the board of elections as a combined question. The question appearing on the ballot shall be as provided in section 5705.252 of the Revised Code.

A levy for the purpose set forth in division (BB) of this section may be imposed in all or a portion of the territory of a subdivision. If the 9-1-1 system to be established and operated with levy funds excludes territory located within the subdivision, the resolution adopted under this section, or a resolution proposing to renew such a levy that was imposed in all of the territory of the subdivision, may describe the area served or to be served by the system and specify that the proposed tax would be imposed only in the areas receiving or to receive the service. Upon passage of such a resolution, the board of elections shall submit the question of the tax levy only to those electors residing in the area or areas in which the tax would be imposed. If the 9-1-1 system would serve the entire subdivision, the resolution shall not exclude territory from the tax levy.

The resolution shall go into immediate effect upon its passage, and no publication of the resolution is necessary other than that provided for in the notice of election.

When the electors of a subdivision or, in the case of a qualifying library levy for the support of a library association or private corporation, the electors of the association library district or, in the case of a 9-1-1 system levy serving only a portion of the territory of a subdivision, the electors of the portion of the subdivision in which the levy would be imposed have approved a tax levy under this section, the taxing authority of the subdivision may anticipate a fraction of the proceeds of the levy and issue anticipation notes in accordance with section 5705.191 or 5705.193 of the Revised Code.

**Sec. 5705.194.** The board of education of any city, local, exempted village, cooperative education, or joint vocational school district at any time may declare by resolution that the revenue that will be raised by all tax levies which the district is authorized to impose, when combined with state and federal revenues, will be insufficient to provide for the emergency requirements of the school district or to avoid an operating deficit, and that it is therefore necessary to levy an additional tax in excess of the ten-mill limitation. The resolution shall be confined to a single purpose and shall specify that purpose. If the levy is proposed to renew all or a portion of the proceeds derived from one or more existing levies imposed pursuant to this section, it shall be called a renewal levy and shall be so designated on the ballot. If two or more existing levies are to be included in a single renewal levy but are not scheduled to expire in the same year, the resolution shall specify that the existing levies to be renewed shall not be levied after the year preceding the year in which the renewal levy is first imposed. Notwithstanding the original purpose of any one or more existing levies that are to be in any single renewal levy, the purpose of the renewal levy may be either to avoid an operating deficit or to provide for the emergency requirements of the school district. The resolution shall further specify the amount of money it is necessary to raise for the specified purpose



for each calendar year the millage is to be imposed; if a renewal levy, whether the levy is to renew all, or a portion of, the proceeds derived from one or more existing levies; and the number of years in which the millage is to be in effect, which may include a levy upon the current year's tax list. The number of years may be any number not exceeding ten.

The question shall be submitted at a special election on a date specified in the resolution. The date shall not be earlier than eighty days after the adoption and certification of the resolution to the county auditor and shall be consistent with the requirements of section 3501.01 of the Revised Code. A resolution for a renewal levy shall not be placed on the ballot unless the question is submitted on a date on which a special election may be held under division (D) of section 3501.01 of the Revised Code, except for the first Tuesday after the first Monday in August, during the last year the levy to be renewed may be extended on the real and public utility property tax list and duplicate, or at any election held in the ensuing year, except that if the resolution proposes renewing two or more existing levies, the question shall be submitted on the date of the general or primary election held during the last year at least one of the levies to be renewed may be extended on that list and duplicate, or at any election held during the ensuing year. For purposes of this section, a levy shall be considered to be an "existing levy" through the year following the last year it can be placed on the real and public utility property tax list and duplicate.

The submission of questions to the electors under this section is subject to the limitation on the number of election dates established by section 5705.214 of the Revised Code.

The resolution shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. A copy of the resolution shall immediately after its passing be certified to the county auditor of the proper county. Section 5705.195 of the Revised Code shall govern the arrangements for the submission of questions to the electors under this section and other matters concerning the election. Publication of notice of the election shall be made in one newspaper of general circulation in the county once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election. If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. If a majority of the electors voting on the question submitted in an election vote in favor of the levy, the board of education of the school district may make the additional levy necessary to raise the amount specified in the resolution for the purpose stated in the resolution. The tax levy shall be included in the next tax budget that is certified to the county budget commission.

After the approval of the levy and prior to the time when the first tax collection from the levy can be made, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in an amount not exceeding the total estimated proceeds of the levy to be collected during the first year of the levy.

The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have principal payment in the year of their issuance.

**Sec. 5705.21.** (A) At any time, the board of education of any city, local, exempted village, cooperative education, or joint vocational school district, by a vote of two-thirds of all its members, may declare by resolution that the amount of taxes that may be raised within the ten-mill limitation

by levies on the current tax duplicate will be insufficient to provide an adequate amount for the necessary requirements of the school district, that it is necessary to levy a tax in excess of such limitation for one of the purposes specified in division (A), (D), (F), (H), or (DD) of section 5705.19 of the Revised Code, for general permanent improvements, for the purpose of operating a cultural center, for the purpose of providing for school safety and security, or for the purpose of providing education technology, and that the question of such additional tax levy shall be submitted to the electors of the school district at a special election on a day to be specified in the resolution. In the case of a qualifying library levy for the support of a library association or private corporation, the question shall be submitted to the electors of the association library district. If the resolution states that the levy is for the purpose of operating a cultural center, the ballot shall state that the levy is "for the purpose of operating the..... (name of cultural center)."

As used in this division, "cultural center" means a freestanding building, separate from a public school building, that is open to the public for educational, musical, artistic, and cultural purposes; "education technology" means, but is not limited to, computer hardware, equipment, materials, and accessories, equipment used for two-way audio or video, and software; "general permanent improvements" means permanent improvements without regard to the limitation of division (F) of section 5705.19 of the Revised Code that the improvements be a specific improvement or a class of improvements that may be included in a single bond issue; and "providing for school safety and security" includes but is not limited to providing for permanent improvements to provide or enhance security, employment of or contracting for the services of safety personnel, providing mental health services and counseling, or providing training in safety and security practices and responses.

A resolution adopted under this division shall be confined to a single purpose and shall specify the amount of the increase in rate that it is necessary to levy, the purpose of the levy, and the number of years during which the increase in rate shall be in effect. The number of years may be any number not exceeding five or, if the levy is for current expenses of the district or for general permanent improvements, for a continuing period of time.

(B)(1) The board of education of a qualifying school district, by resolution, may declare that it is necessary to levy a tax in excess of the ten-mill limitation for the purpose of paying the current expenses of partnering community schools and, if any of the levy proceeds are so allocated, of the district. A qualifying school district that is not a municipal school district may allocate all of the levy proceeds to partnering community schools. A municipal school district shall allocate a portion of the levy proceeds to the current expenses of the district. The resolution shall declare that the question of the additional tax levy shall be submitted to the electors of the school district at a special election on a day to be specified in the resolution. The resolution shall state the purpose of the levy, the rate of the tax expressed in mills per dollar of taxable value, the number of such mills to be levied for the current expenses of the partnering community schools and the number of such mills, if any, to be levied for the current expenses of the school district, the number of years the tax will be levied, and the first year the tax will be levied. The number of years the tax may be levied may be any number not exceeding ten years, or for a continuing period of time.

The levy of a tax for the current expenses of a partnering community school under this section and the distribution of proceeds from the tax by a qualifying school district to partnering

community schools is hereby determined to be a proper public purpose.

(2)(a) If any portion of the levy proceeds are to be allocated to the current expenses of the qualifying school district, the form of the ballot at an election held pursuant to division (B) of this section shall be as follows:

"Shall a levy be imposed by the..... (insert the name of the qualifying school district) for the purpose of current expenses of the school district and of partnering community schools at a rate not exceeding..... (insert the number of mills) mills for each one dollar of valuation, of which..... (insert the number of mills to be allocated to partnering community schools) mills is to be allocated to partnering community schools), which amounts to..... (insert the rate expressed in dollars and cents) for each one hundred dollars of valuation, for..... (insert the number of years the levy is to be imposed, or that it will be levied for a continuing period of time), beginning..... (insert first year the tax is to be levied), which will first be payable in calendar year..... (insert the first calendar year in which the tax would be payable)?

FOR THE TAX LEVY
AGAINST THE TAX LEVY

"

(b) If all of the levy proceeds are to be allocated to the current expenses of partnering community schools, the form of the ballot shall be as follows:

"Shall a levy be imposed by the..... (insert the name of the qualifying school district) for the purpose of current expenses of partnering community schools at a rate not exceeding..... (insert the number of mills) mills for each one dollar of valuation which amounts to..... (insert the rate expressed in dollars and cents) for each one hundred dollars of valuation, for..... (insert the number of years the levy is to be imposed, or that it will be levied for a continuing period of time), beginning..... (insert first year the tax is to be levied), which will first be payable in calendar year..... (insert the first calendar year in which the tax would be payable)?

FOR THE TAX LEVY
AGAINST THE TAX LEVY

"

(3) Upon each receipt of a tax distribution by the qualifying school district, the board of education shall credit the portion allocated to partnering community schools to the partnering community schools fund. All income from the investment of money in the partnering community schools fund shall be credited to that fund.

(a) If the qualifying school district is a municipal school district, the board of education shall distribute the partnering community schools amount among the then qualifying community schools not more than forty-five days after the school district receives and deposits each tax distribution. From each tax distribution, each such partnering community school shall receive a portion of the partnering community schools amount in the proportion that the number of its resident students bears to the aggregate number of resident students of all such partnering community schools as of the date

of receipt and deposit of the tax distribution.

(b) If the qualifying school district is not a municipal school district, the board of education may distribute all or a portion of the amount in the partnering community schools fund during a fiscal year to partnering community schools on or before the first day of June of the preceding fiscal year. Each such partnering community school shall receive a portion of the amount distributed by the board from the partnering community schools fund during the fiscal year in the proportion that the number of its resident students bears to the aggregate number of resident students of all such partnering community schools as of the date the school district received and deposited the most recent tax distribution. On or before the fifteenth day of June of each fiscal year, the board of education shall announce an estimated allocation to partnering community schools for the ensuing fiscal year. The board is not required to allocate to partnering community schools the entire partnering community schools amount in the fiscal year in which a tax distribution is received and deposited in the partnering community schools fund. The estimated allocation shall be published on the web site of the school district and expressed as a dollar amount per resident student. The actual allocation to community schools in a fiscal year need not conform to the estimate published by the school district so long if the estimate was made in good faith.

Distributions by a school district under division (B)(3)(b) of this section shall be made in accordance with distribution agreements entered into by the board of education and each partnering community school eligible for distributions under this division. The distribution agreements shall be certified to the department of education each fiscal year before the thirtieth day of July. Each agreement shall provide for at least three distributions by the school district to the partnering community school during the fiscal year and shall require the initial distribution be made on or before the thirtieth day of July.

(c) For the purposes of division (B) of this section, the number of resident students shall be the number of such students reported under section 3317.03 of the Revised Code and established by the department of education as of the date of receipt and deposit of the tax distribution.

(4) To the extent an agreement whereby the qualifying school district and a community school endorse each other's programs is necessary for the community school to qualify as a partnering community school under division (B)(6)(b) of this section, the board of education of the school district shall certify to the department of education the agreement along with the determination that such agreement satisfies the requirements of that division. The board's determination is conclusive.

(5) For the purposes of Chapter 3317. of the Revised Code or other laws referring to the "taxes charged and payable" for a school district, the taxes charged and payable for a qualifying school district that levies a tax under division (B) of this section includes only the taxes charged and payable under that levy for the current expenses of the school district, and does not include the taxes charged and payable for the current expenses of partnering community schools. The taxes charged and payable for the current expenses of partnering community schools shall not affect the calculation of "state education aid" as defined in section 5751.20 of the Revised Code.

(6) As used in division (B) of this section:

(a) "Qualifying school district" means a municipal school district, as defined in section 3311.71 of the Revised Code or a school district that contains within its territory a partnering

community school.

(b) "Partnering community school" means a community school established under Chapter 3314. of the Revised Code that is located within the territory of the qualifying school district and meets one of the following criteria:

(i) If the qualifying school district is a municipal school district, the community school is sponsored by the district or is a party to an agreement with the district whereby the district and the community school endorse each other's programs;

(ii) If the qualifying school district is not a municipal school district, the community school is sponsored by a sponsor that was rated as "exemplary" in the ratings most recently published under section 3314.016 of the Revised Code before the resolution proposing the levy is certified to the board of elections.

(c) "Partnering community schools amount" means the product obtained, as of the receipt and deposit of the tax distribution, by multiplying the amount of a tax distribution by a fraction, the numerator of which is the number of mills per dollar of taxable value of the property tax to be allocated to partnering community schools, and the denominator of which is the total number of mills per dollar of taxable value authorized by the electors in the election held under division (B) of this section, each as set forth in the resolution levying the tax. If the resolution allocates all of the levy proceeds to partnering community schools, the "partnering schools amount" equals the amount of the tax distribution.

(d) "Partnering community schools fund" means a separate fund established by the board of education of a qualifying school district for the deposit of partnering community school amounts under this section.

(e) "Resident student" means a student enrolled in a partnering community school who is entitled to attend school in the qualifying school district under section 3313.64 or 3313.65 of the Revised Code.

(f) "Tax distribution" means a distribution of proceeds of the tax authorized by division (B) of this section under section 321.24 of the Revised Code and distributions that are attributable to that tax under sections 323.156 and 4503.068 of the Revised Code or other applicable law.

(C) A resolution adopted under this section shall specify the date of holding the election, which shall not be earlier than ninety days after the adoption and certification of the resolution and which shall be consistent with the requirements of section 3501.01 of the Revised Code.

A resolution adopted under this section may propose to renew one or more existing levies imposed under division (A) or (B) of this section or to increase or decrease a single levy imposed under either such division.

If the board of education imposes one or more existing levies for the purpose specified in division (F) of section 5705.19 of the Revised Code, the resolution may propose to renew one or more of those existing levies, or to increase or decrease a single such existing levy, for the purpose of general permanent improvements.

If the resolution proposes to renew two or more existing levies, the levies shall be levied for the same purpose. The resolution shall identify those levies and the rates at which they are levied. The resolution also shall specify that the existing levies shall not be extended on the tax lists after the year preceding the year in which the renewal levy is first imposed, regardless of the years for which

those levies originally were authorized to be levied.

If the resolution proposes to renew an existing levy imposed under division (B) of this section, the rates allocated to the qualifying school district and to partnering community schools each may be increased or decreased or remain the same, and the total rate may be increased, decreased, or remain the same. The resolution and notice of election shall specify the number of the mills to be levied for the current expenses of the partnering community schools and the number of the mills, if any, to be levied for the current expenses of the qualifying school district.

A resolution adopted under this section shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. A copy of the resolution shall immediately after its passing be certified to the board of elections of the proper county in the manner provided by section 5705.25 of the Revised Code. That section shall govern the arrangements for the submission of such question and other matters concerning the election to which that section refers, including publication of notice of the election, except that the election shall be held on the date specified in the resolution. In the case of a resolution adopted under division (B) of this section, the publication of notice of that election shall state the number of the mills, if any, to be levied for the current expenses of partnering community schools and the number of the mills to be levied for the current expenses of the qualifying school district. If a majority of the electors voting on the question so submitted in an election vote in favor of the levy, the board of education may make the necessary levy within the school district or, in the case of a qualifying library levy for the support of a library association or private corporation, within the association library district, at the additional rate, or at any lesser rate in excess of the ten-mill limitation on the tax list, for the purpose stated in the resolution. A levy for a continuing period of time may be reduced pursuant to section 5705.261 of the Revised Code. The tax levy shall be included in the next tax budget that is certified to the county budget commission.

(D)(1) After the approval of a levy on the current tax list and duplicate for current expenses, for recreational purposes, for community centers provided for in section 755.16 of the Revised Code, or for a public library of the district under division (A) of this section, and prior to the time when the first tax collection from the levy can be made, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy to be collected during the first year of the levy.

(2) After the approval of a levy for general permanent improvements for a specified number of years or for permanent improvements having the purpose specified in division (F) of section 5705.19 of the Revised Code, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy remaining to be collected in each year over a period of five years after the issuance of the notes.

The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.

(3) After approval of a levy for general permanent improvements for a continuing period of time, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of

the levy to be collected in each year over a specified period of years, not exceeding ten, after the issuance of the notes.

The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed ten years, and may have a principal payment in the year of their issuance.

(4) After the approval of a levy on the current tax list and duplicate under division (B) of this section, and prior to the time when the first tax collection from the levy can be made, the board of education may anticipate a fraction of the proceeds of the levy for the current expenses of the school district and issue anticipation notes in a principal amount not exceeding fifty per cent of the estimated proceeds of the levy to be collected during the first year of the levy and allocated to the school district. The portion of the levy proceeds to be allocated to partnering community schools under that division shall not be included in the estimated proceeds anticipated under this division and shall not be used to pay debt charges on any anticipation notes.

The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.

(E) The submission of questions to the electors under this section is subject to the limitation on the number of election dates established by section 5705.214 of the Revised Code.

(F) The board of education of any school district that levies a tax under this section for the purpose of providing for school safety and security may report to the department of education how the district is using revenue from that tax.

**Sec. 5705.212.** (A)(1) The board of education of any school district, at any time and by a vote of two-thirds of all of its members, may declare by resolution that the amount of taxes that may be raised within the ten-mill limitation will be insufficient to provide an adequate amount for the present and future requirements of the school district, that it is necessary to levy not more than five taxes in excess of that limitation for current expenses, and that each of the proposed taxes first will be levied in a different year, over a specified period of time. The board shall identify the taxes proposed under this section as follows: the first tax to be levied shall be called the "original tax." Each tax subsequently levied shall be called an "incremental tax." The rate of each incremental tax shall be identical, but the rates of such incremental taxes need not be the same as the rate of the original tax. The resolution also shall state that the question of these additional taxes shall be submitted to the electors of the school district at a special election. The resolution shall specify separately for each tax proposed: the amount of the increase in rate that it is necessary to levy, expressed separately for the original tax and each incremental tax; that the purpose of the levy is for current expenses; the number of years during which the original tax shall be in effect; a specification that the last year in which the original tax is in effect shall also be the last year in which each incremental tax shall be in effect; and the year in which each tax first is proposed to be levied. The original tax may be levied for any number of years not exceeding ten, or for a continuing period of time. The resolution shall specify the date of holding the special election, which shall not be earlier than ninety days after the adoption and certification of the resolution and shall be consistent with the requirements of section 3501.01 of the Revised Code.

(2) The board of education, by a vote of two-thirds of all of its members, may adopt a

resolution proposing to renew taxes levied other than for a continuing period of time under division (A)(1) of this section. Such a resolution shall provide for levying a tax and specify all of the following:

- (a) That the tax shall be called and designated on the ballot as a renewal levy;
- (b) The rate of the renewal tax, which shall be a single rate that combines the rate of the original tax and each incremental tax into a single rate. The rate of the renewal tax shall not exceed the aggregate rate of the original and incremental taxes.
- (c) The number of years, not to exceed ten, that the renewal tax will be levied, or that it will be levied for a continuing period of time;
- (d) That the purpose of the renewal levy is for current expenses;
- (e) Subject to the certification and notification requirements of section 5705.251 of the Revised Code, that the question of the renewal levy shall be submitted to the electors of the school district at the general election held during the last year the original tax may be extended on the real and public utility property tax list and duplicate or at a special election held during the ensuing year.

(3) A resolution adopted under division (A)(1) or (2) of this section shall go into immediate effect upon its adoption and no publication of the resolution is necessary other than that provided for in the notice of election. Immediately after its adoption, a copy of the resolution shall be certified to the board of elections of the proper county in the manner provided by division (A) of section 5705.251 of the Revised Code, and that division shall govern the arrangements for the submission of the question and other matters concerning the election to which that section refers. The election shall be held on the date specified in the resolution. If a majority of the electors voting on the question so submitted in an election vote in favor of the taxes or a renewal tax, the board of education, if the original or a renewal tax is authorized to be levied for the current year, immediately may make the necessary levy within the school district at the authorized rate, or at any lesser rate in excess of the ten-mill limitation, for the purpose stated in the resolution. No tax shall be imposed prior to the year specified in the resolution as the year in which it is first proposed to be levied. The rate of the original tax and the rate of each incremental tax shall be cumulative, so that the aggregate rate levied in any year is the sum of the rates of both the original tax and all incremental taxes levied in or prior to that year under the same proposal. A tax levied for a continuing period of time under this section may be reduced pursuant to section 5705.261 of the Revised Code.

(B) Notwithstanding section 133.30 of the Revised Code, after the approval of a tax to be levied in the current or the succeeding year and prior to the time when the first tax collection from that levy can be made, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in an amount not to exceed fifty per cent of the total estimated proceeds of the levy to be collected during the first year of the levy. The notes shall be sold as provided in Chapter 133. of the Revised Code. If anticipation notes are issued, they shall mature serially and in substantially equal amounts during each year over a period not to exceed five years; and the amount necessary to pay the interest and principal as the anticipation notes mature shall be deemed appropriated for those purposes from the levy, and appropriations from the levy by the board of education shall be limited each fiscal year to the balance available in excess of that amount.

If the auditor of state has certified a deficit pursuant to section 3313.483 of the Revised Code, the notes authorized under this section may be sold in accordance with Chapter 133. of the Revised



Code, except that the board may sell the notes after providing a reasonable opportunity for competitive bidding.

(C)(1) The board of education of a qualifying school district, at any time and by a vote of two-thirds of all its members, may declare by resolution that it is necessary to levy not more than five taxes in excess of the ten-mill limitation for the current expenses of partnering community schools and, if any of the levy proceeds are so allocated, of the school district, and that each of the proposed taxes first will be levied in a different year, over a specified period of time. A qualifying school district that is not a municipal school district may allocate all of the levy proceeds to partnering community schools. A municipal school district shall allocate a portion of the levy proceeds to the current expenses of the district. The board shall identify the taxes proposed under this division in the same manner as in division (A)(1) of this section. The rate of each incremental tax shall be identical, but the rates of such incremental taxes need not be the same as the rate of the original tax. In addition to the specifications required of the resolution in division (A) of this section, the resolution shall state the number of the mills to be levied each year for the current expenses of the partnering community schools and the number of the mills, if any, to be levied each year for the current expenses of the school district. The number of mills for the current expenses of partnering community schools shall be the same for each of the incremental taxes, and the number of mills for the current expenses of the qualifying school district shall be the same for each of the incremental taxes.

The levy of taxes for the current expenses of a partnering community school under division (C) of this section and the distribution of proceeds from the tax by a qualifying school district to partnering community schools is hereby determined to be a proper public purpose.

(2) The board of education, by a vote of two-thirds of all of its members, may adopt a resolution proposing to renew taxes levied other than for a continuing period of time under division (C)(1) of this section. In such a renewal levy, the rates allocated to the qualifying school district and to partnering community schools each may be increased or decreased or remain the same, and the total rate may be increased, decreased, or remain the same. In addition to the requirements of division (A)(2) of this section, the resolution shall state the number of the mills to be levied for the current expenses of the partnering community schools and the number of the mills to be levied for the current expenses of the school district.

(3) A resolution adopted under division (C)(1) or (2) of this section is subject to the rules and procedures prescribed by division (A)(3) of this section.

(4) The proceeds of each tax levied under division (C)(1) or (2) of this section shall be credited and distributed in the manner prescribed by division (B)(3) of section 5705.21 of the Revised Code, and divisions (B)(4), (5), and (6) of that section apply to taxes levied under division (C) of this section.

(5) Notwithstanding section 133.30 of the Revised Code, after the approval of a tax to be levied under division (C)(1) or (2) of this section, in the current or succeeding year and prior to the time when the first tax collection from that levy can be made, the board of education may anticipate a fraction of the proceeds of the levy for the current expenses of the qualifying school district and issue anticipation notes in a principal amount not exceeding fifty per cent of the estimated proceeds of the levy to be collected during the first year of the levy and allocated to the school district. The portion of levy proceeds to be allocated to partnering community schools shall not be included in the estimated

proceeds anticipated under this division and shall not be used to pay debt charges on any anticipation notes.

The notes shall be sold as provided in Chapter 133. of the Revised Code. If anticipation notes are issued, they shall mature serially and in substantially equal amounts during each year over a period not to exceed five years. The amount necessary to pay the interest and principal as the anticipation notes mature shall be deemed appropriated for those purposes from the levy, and appropriations from the levy by the board of education shall be limited each fiscal year to the balance available in excess of that amount.

If the auditor of state has certified a deficit pursuant to section 3313.483 of the Revised Code, the notes authorized under this section may be sold in accordance with Chapter 133. of the Revised Code, except that the board may sell the notes after providing a reasonable opportunity for competitive bidding.

As used in division (C) of this section, "qualifying school district" and "partnering community schools" have the same meanings as in section 5705.21 of the Revised Code.

(D) The submission of questions to the electors under this section is subject to the limitation on the number of election dates established by section 5705.214 of the Revised Code.

**Sec. 5705.214.** Not more than three elections during any calendar year shall include the questions by a school district of tax levies proposed under any one or any combination of the following sections: sections 5705.194, 5705.199, 5705.21, 5705.212, 5705.213, 5705.217, 5705.218, 5705.219, 5705.2112, and 5748.09 of the Revised Code.

**Sec. 5705.2112.**

**Sec. 5705.34.** When the budget commission has completed its work with respect to a tax budget or other information required to be provided under section 5705.281 of the Revised Code, it shall certify its action to the taxing authority, together with an estimate by the county auditor of the rate of each tax necessary to be levied by the taxing authority within its subdivision, taxing unit, or, in the case of a qualifying library levy, within the library district or association library district, and what part thereof is in excess of, and what part within, the ten-mill tax limitation. The certification shall also indicate the date on which each tax levied by the taxing authority will expire.

If a taxing authority levies a tax for a fixed sum of money or to pay debt charges for the tax year for which the tax budget is prepared, and a payment on account of that tax is payable to the taxing authority for the tax year under section 5709.92 or 5709.93; of the Revised Code, the county auditor, when estimating the rate at which the tax shall be levied in the current year, shall estimate the rate necessary to raise the required sum less the estimated amount of any such payments made for the tax year to a taxing unit for fixed-sum levies under those sections. The estimated rate shall be the rate of the levy that the budget commission certifies with its action under this section.

Each taxing authority, by ordinance or resolution, shall authorize the necessary tax levies and certify them to the county auditor before the first day of October in each year, or at such later date as is approved by the tax commissioner, except that the certification by the legislative authority of the city of Cincinnati or by a board of education shall be made by the first day of April or at such later date as is approved by the commissioner, and except that a township board of park commissioners that is appointed by the board of township trustees and oversees a township park district that contains only unincorporated territory shall authorize only those taxes approved by, and only at the rate

approved by, the board of township trustees as required by division (C) of section 511.27 of the Revised Code. If the levying of a tax to be placed on the duplicate of the current year is approved by electors under sections 5705.01 to 5705.47 of the Revised Code; if the rate of a school district tax is increased due to the repeal of a school district income tax and property tax rate reduction at an election held pursuant to section 5748.04 of the Revised Code; or if refunding bonds to refund all or a part of the principal of bonds payable from a tax levy for the ensuing fiscal year are issued or sold and in the process of delivery, the budget commission shall reconsider and revise its action on the budget of the subdivision or school library district for whose benefit the tax is to be levied after the returns of such election are fully canvassed, or after the issuance or sale of such refunding bonds is certified to it.

**Sec. 5709.17.** The following property shall be exempted from taxation:

(A) Real estate held or occupied by an association or corporation, organized or incorporated under the laws of this state relative to soldiers' memorial associations or monumental building associations and that, in the opinion of the trustees, directors, or managers thereof, is necessary and proper to carry out the object intended for such association or corporation;

(B) Real estate and tangible personal property held or occupied by a qualifying veterans' organization and used primarily for meetings and administration of the qualifying veterans' organization or for providing, on a not-for-profit basis, programs and supportive services to past or present members of the armed forces of the United States and their families, except real estate held by such an organization for the production of rental income in excess of thirty-six thousand dollars in a tax year, before accounting for any cost or expense incurred in the production of such income. For the purposes of this division, rental income includes only income arising directly from renting the real estate to others for consideration.

As used in this division, "qualifying veterans' organization" means an organization that is incorporated under the laws of this state or the United States and that meets either of the following requirements:

(1) The organization qualifies for exemption from taxation under section 501(c)(19) or 501(c)(23) of the Internal Revenue Code.

(2) The organization meets the criteria for exemption under section 501(c)(19) of the Internal Revenue Code and regulations adopted pursuant thereto, but is exempt from taxation under section 501(c)(4) of the Internal Revenue Code.

(C) Tangible personal property held by a corporation chartered under 112 Stat. 1335, 36 U.S.C. 40701, described in section 501(c)(3) of the Internal Revenue Code, and exempt from taxation under section 501(a) of the Internal Revenue Code shall be exempt from taxation if it is property obtained as described in 112 Stat. 1335-1341, 36 U.S.C.A. Chapter 407.

(D) Real estate held or occupied by a fraternal organization and used primarily for meetings of and the administration of the fraternal organization or for providing, on a not-for-profit basis, educational or health services, except real estate held by such an organization for the production of rental income in excess of thirty-six thousand dollars in a tax year before accounting for any cost or expense incurred in the production of such income. As used in this division, "rental income" has the same meaning as in division (B) of this section, and "fraternal organization" means a domestic fraternal society, order, or association operating under the lodge, council, or grange system that

qualifies for exemption from taxation under section 501(c)(5), 501(c)(8), or 501(c)(10) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended; that provides financial support for charitable purposes, as defined in division (B)(12) of section 5739.02 of the Revised Code; and that operates under a state governing body that has been operating in this state for at least eighty-five years.

**Sec. 5709.62.** (A) In any municipal corporation that is defined by the United States office of management and budget as a principal city of a metropolitan statistical area, the legislative authority of the municipal corporation may designate one or more areas within its municipal corporation as proposed enterprise zones. Upon designating an area, the legislative authority shall petition the director of development services for certification of the area as having the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (E) of this section, on and after July 1, 1994, legislative authorities shall not enter into agreements under this section unless the legislative authority has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code, and shall forward the findings to the legislative authority of the municipal corporation. If the director certifies the area as having those characteristics, and thereby certifies it as a zone, the legislative authority may enter into an agreement with an enterprise under division (C) of this section.

(B) Any enterprise that wishes to enter into an agreement with a municipal corporation under division (C) of this section shall submit a proposal to the legislative authority of the municipal corporation on a form prescribed by the director of development services, together with the application fee established under section 5709.68 of the Revised Code. The form shall require the following information:

(1) An estimate of the number of new employees whom the enterprise intends to hire, or of the number of employees whom the enterprise intends to retain, within the zone at a facility that is a project site, and an estimate of the amount of payroll of the enterprise attributable to these employees;

(2) An estimate of the amount to be invested by the enterprise to establish, expand, renovate, or occupy a facility, including investment in new buildings, additions or improvements to existing buildings, machinery, equipment, furniture, fixtures, and inventory;

(3) A listing of the enterprise's current investment, if any, in a facility as of the date of the proposal's submission.

The enterprise shall review and update the listings required under this division to reflect material changes, and any agreement entered into under division (C) of this section shall set forth final estimates and listings as of the time the agreement is entered into. The legislative authority may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(C) Upon receipt and investigation of a proposal under division (B) of this section, if the legislative authority finds that the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and improve the economic climate of the municipal corporation, the legislative authority may do one of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to seventy-five per cent, of the assessed value of tangible personal property first used in business at the project site as a result of the agreement. If an exemption for inventory is specifically granted in the agreement pursuant to this division, the exemption applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except that, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(b) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to seventy-five per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the legislative authority;

(c) Provision for a specified number of years, not to exceed fifteen, of any optional services or assistance that the municipal corporation is authorized to provide with regard to the project site.

(2) Enter into an agreement under which the enterprise agrees to remediate an environmentally contaminated facility, to spend an amount equal to at least two hundred fifty per cent of the true value in money of the real property of the facility prior to remediation as determined for the purposes of property taxation to establish, expand, renovate, or occupy the remediated facility, and to hire new employees or preserve employment opportunities for existing employees at the remediated facility, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, not to exceed fifty per cent, of the assessed valuation of the real property of the facility prior to remediation;

(b) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, not to exceed one hundred per cent, of the increase in the assessed valuation of the real property of the facility during or after remediation;

(c) The incentive under division (C)(1)(a) of this section, except that the percentage of the assessed value of such property exempted from taxation shall not exceed one hundred per cent;

(d) The incentive under division (C)(1)(c) of this section.

(3) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to one hundred per cent, of the assessed value of tangible personal property used in business at the project site as a result of the agreement, or of the assessed valuation of real property constituting the

project site, or both.

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed seventy-five per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed sixty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of seventy-five per cent.

(2) Notwithstanding any provision of the Revised Code to the contrary, the exemptions described in divisions (C)(1)(a), (b), and (c), (C)(2)(a), (b), and (c), and (C)(3) of this section may be for up to fifteen years if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a number of years in excess of ten.

(3) For the purpose of obtaining the approval of a city, local, or exempted village school district under division (D)(1) or (2) of this section, the legislative authority shall deliver to the board of education a notice not later than forty-five days prior to approving the agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the legislative authority not later than fourteen days prior to the date stipulated by the legislative authority as the date upon which approval of the agreement is to be formally considered by the legislative authority. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code. The legislative authority may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the legislative authority, or, if the board approves the agreement conditionally, at any time after the conditions are agreed to by the board and the legislative authority.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board is not required under this division. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under this division fewer than forty-five business days prior to the legislative authority's approval of the agreement, the legislative authority shall deliver the notice to the board not later than the number of days prior to such approval as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(4) The legislative authority shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(E) This division applies to zones certified by the director of development services under this section prior to July 22, 1994.

The legislative authority that designated a zone to which this division applies may enter into an agreement with an enterprise if the legislative authority finds that the enterprise satisfies one of the criteria described in divisions (E)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development services has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (C) of this section.

(F) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement is entered into under this section, if the legislative authority revokes its designation of a zone, or if the director of development services revokes a zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(G) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority and shall be used by the legislative authority exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority may waive or reduce the amount of the fee charged against an enterprise, but such a waiver or reduction does not affect the obligations of the legislative authority or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code.

(H) When an agreement is entered into pursuant to this section, the legislative authority authorizing the agreement shall forward a copy of the agreement to the director of development services and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the

revenue of a city, local, or exempted village school district or causing revenue to be forgone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development services along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed, or annual report required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

(L) The tax commissioner's authority in determining the accuracy of any exemption granted by an agreement entered into under this section is limited to divisions (C)(1)(a) and (b), (C)(2)(a), (b), and (c), (C)(3), (D), and (I) of this section and divisions (B)(1) to (10) of section 5709.631 of the Revised Code and, as authorized by law, to enforcing any modification to, or revocation of, that agreement by the legislative authority of a municipal corporation or the director of development services.

**Sec. 5709.63.** (A) With the consent of the legislative authority of each affected municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed enterprise zones. A board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed enterprise zone. The board shall petition the director of development services for certification of the area as having the characteristics set forth in division (A)(1) or (2) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (D) of this section, on and after July 1, 1994, boards of county commissioners shall not enter into agreements under this section unless the board has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. The director shall make the determination in the manner provided under section 5709.62 of the Revised Code.

Any enterprise wishing to enter into an agreement with the board under division (B) or (D) of this section shall submit a proposal to the board on the form and accompanied by the application fee prescribed under division (B) of section 5709.62 of the Revised Code. The enterprise shall review and update the estimates and listings required by the form in the manner required under that division.



The board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(B) If the board of county commissioners finds that an enterprise submitting a proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, the board, with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees, may do either of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(a) When the facility is located in a municipal corporation, the board may enter into an agreement for one or more of the incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section;

(b) When the facility is located in an unincorporated area, the board may enter into an agreement for one or more of the following incentives:

(i) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to sixty per cent, of the assessed value of tangible personal property first used in business at a project site as a result of the agreement. If an exemption for inventory is specifically granted in the agreement pursuant to this division, the exemption applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(ii) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to sixty per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the board;

(iii) Provision for a specified number of years, not to exceed fifteen, of any optional services or assistance the board is authorized to provide with regard to the project site;

(iv) The incentive described in division (C)(2) of section 5709.62 of the Revised Code.

(2) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or has announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to one hundred per cent, of tangible personal property used in business at the project site as a result of the agreement, or of real property constituting the project site, or both.

(C)(1)(a) Notwithstanding divisions (B)(1)(b)(i) and (ii) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed sixty per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed fifty per cent, or if the board of education of the city, local, or

exempted village school district within the territory of which the property is or will be located approves a percentage in excess of sixty per cent.

(b) Notwithstanding any provision of the Revised Code to the contrary, the exemptions described in divisions (B)(1)(b)(i), (ii), (iii), and (iv) and (B)(2) of this section may be for up to fifteen years if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a number of years in excess of ten.

(c) For the purpose of obtaining the approval of a city, local, or exempted village school district under division (C)(1)(a) or (b) of this section, the board of county commissioners shall deliver to the board of education a notice not later than forty-five days prior to approving the agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the board of county commissioners not later than fourteen days prior to the date stipulated by the board of county commissioners as the date upon which approval of the agreement is to be formally considered by the board of county commissioners. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code. The board of county commissioners may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the board of county commissioners, or, if the board of education approves the agreement conditionally, at any time after the conditions are agreed to by the board of education and the board of county commissioners.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board of education is not required under division (C) of this section. If a board of education has adopted a resolution allowing a board of county commissioners to deliver the notice required under this division fewer than forty-five business days prior to approval of the agreement by the board of county commissioners, the board of county commissioners shall deliver the notice to the board of education not later than the number of days prior to such approval as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board of education shall certify a copy of the resolution to the board of county commissioners. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the board of county commissioners.

(2) The board of county commissioners shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(D) This division applies to zones certified by the director of development services under this section prior to July 22, 1994.

With the consent of the legislative authority of each affected municipal corporation or board of township trustees of each affected township, the board of county commissioners that designated a zone to which this division applies may enter into an agreement with an enterprise if the board finds

that the enterprise satisfies one of the criteria described in divisions (D)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development services has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (B) of this section.

(E) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the board of county commissioners revokes its designation of a zone, or if the director of development services revokes a zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(F) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the board of county commissioners once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the board and shall be used by the board exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(G) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated under division (A) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board of county commissioners to negotiate and administer agreements with regard to that zone under this section.

(H) When an agreement is entered into pursuant to this section, the board of county commissioners authorizing the agreement or the legislative authority or board of township trustees that negotiates and administers the agreement shall forward a copy of the agreement to the director of

development services and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be foregone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development services along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed, or annual report that is required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

(L) The tax commissioner's authority in determining the accuracy of any exemption granted by an agreement entered into under this section is limited to divisions (B)(1)(b)(i) and (ii), (B)(2), (C), and (I) of this section, division (B)(1)(b)(iv) of this section as it pertains to divisions (C)(2)(a), (b), and (c) of section 5709.62 of the Revised Code, and divisions (B)(1) to (10) of section 5709.631 of the Revised Code and, as authorized by law, to enforcing any modification to, or revocation of, that agreement by the board of county commissioners or the director of development services or, if the board's powers and duties are delegated under division (G) of this section, by the legislative authority of a municipal corporation or board of township trustees.

**Sec. 5709.632.** (A)(1) The legislative authority of a municipal corporation defined by the United States office of management and budget as a principal city of a metropolitan statistical area may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in the municipal corporation as a proposed enterprise zone.

(2) With the consent of the legislative authority of each affected municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed urban jobs and enterprise zones, except that a board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed urban jobs and enterprise zone.

(3) The legislative authority or board of county commissioners may petition the director of development services for certification of the area as having the characteristics set forth in division (A)(3) of section 5709.61 of the Revised Code. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in that division and forward the findings to the legislative authority or board of county commissioners. If the director certifies the

area as having those characteristics and thereby certifies it as a zone, the legislative authority or board may enter into agreements with enterprises under division (B) of this section. Any enterprise wishing to enter into an agreement with a legislative authority or board of county commissioners under this section and satisfying one of the criteria described in divisions (B)(1) to (5) of this section shall submit a proposal to the legislative authority or board on the form prescribed under division (B) of section 5709.62 of the Revised Code and shall review and update the estimates and listings required by the form in the manner required under that division. The legislative authority or board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(B) Prior to entering into an agreement with an enterprise, the legislative authority or board of county commissioners shall determine whether the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, and whether the enterprise satisfies one of the following criteria:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development services has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

(C) If the legislative authority or board determines that the enterprise is so qualified and satisfies one of the criteria described in divisions (B)(1) to (5) of this section, the legislative authority or board may, after complying with section 5709.83 of the Revised Code and, in the case of a board of commissioners, with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees, enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(1) When the facility is located in a municipal corporation, a legislative authority or board of commissioners may enter into an agreement for one or more of the incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section;

(2) When the facility is located in an unincorporated area, a board of commissioners may enter into an agreement for one or more of the incentives provided in divisions (B)(1)(b), (B)(2), and (B)(3) of section 5709.63 of the Revised Code, subject to division (C) of that section.

(D) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the legislative authority or board of county commissioners revokes its designation of the zone, or if the director of development services revokes the zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(E) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority or board of commissioners once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority or board and shall be used by the legislative authority or board exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority or board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the legislative authority or board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(F) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated under division (A)(2) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board to negotiate and administer agreements with regard to that zone under this section.

(G) When an agreement is entered into pursuant to this section, the legislative authority or board of commissioners authorizing the agreement shall forward a copy of the agreement to the director of development services and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be forgone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development services along with the copy of the agreement forwarded under this division.

(H) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(I) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

**Sec. 5709.67.** (A) Except as otherwise provided in sections 5709.61 to 5709.69 of the

Revised Code, the director of development shall administer those sections and shall adopt rules necessary to implement and administer the enterprise zone program. The director shall assign to each zone currently certified a unique designation by which the zone shall be identified for purposes of administering sections 5709.61 to 5709.69 of the Revised Code. The tax commissioner shall administer all other tax incentives provided under sections 5709.61 to 5709.69 of the Revised Code and shall adopt rules necessary to carry out that duty. No tax incentive qualification certificate or employee tax credit certificate shall be issued or remain in effect unless the enterprise applying for or holding the certificate complies with all such rules. The director of job and family services shall administer the incentive provided under division (B)(1) of section 5709.66 of the Revised Code and shall adopt rules necessary to carry out that duty. No extension of benefits certificate shall be issued or remain in effect unless the enterprise applying for or holding the certificate complies with all such rules.

(B) Not later than the first day of August each year, the director of development shall report to the general assembly on all of the following for the preceding calendar year:

(1) The cost to the state of the tax and other incentives provided under sections 5709.61 to 5709.69 of the Revised Code;

(2) The number of tax incentive qualification certificates, employee tax credit certificates, and extension of benefits certificates issued;

(3) The names of the municipal corporations and counties that have entered agreements under sections 5709.62, 5709.63, and 5709.632 of the Revised Code;

(4) The number of new employees hired as a result of the tax and other incentives provided under sections 5709.61 to 5709.69 of the Revised Code;

(5) Information on agreement terms concerning school district revenue that are not provided for in section 5709.631 of the Revised Code and that are forwarded to the director under division (H) of section 5709.62, division (H) of section 5709.63, or division (G) of section 5709.632 of the Revised Code.

The report shall include a finding by the director as to whether the incentives provided under sections 5709.61 to 5709.69 of the Revised Code have resulted in the creation of more positions in the state than would have been created without the incentives. The director shall send a copy of the report to each member of the general assembly and to the director of the legislative service commission.

**Sec. 5709.73.** (A) As used in this section and section 5709.74 of the Revised Code:

(1) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined in section 1.14 of the Revised Code.

(2) "Further improvements" or "improvements" means the increase in the assessed value of real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of a resolution adopted under this section were it not for the exemption granted by that resolution. For purposes of division (B) of this section, "improvements" do not include any property used or to be used for residential purposes. For this purpose, "property that is used or to be used for residential purposes" means property that, as improved, is used or to be used for purposes that would cause the tax commissioner to classify the property as residential property in accordance with rules adopted by the commissioner under section 5713.041 of the Revised Code.

(3) "Housing renovation" means a project carried out for residential purposes.

(4) "Incentive district" has the same meaning as in section 5709.40 of the Revised Code, except that a blighted area is in the unincorporated area of a township.

(5) "Overlay" has the same meaning as in section 5709.40 of the Revised Code, except that the overlay is delineated by the board of township trustees.

(6) "Project" and "public infrastructure improvement" have the same meanings as in section 5709.40 of the Revised Code.

(B) A board of township trustees may, by unanimous vote, adopt a resolution that declares to be a public purpose any public infrastructure improvements made that are necessary for the development of certain parcels of land located in the unincorporated area of the township. Except with the approval under division (D) of this section of the board of education of each city, local, or exempted village school district within which the improvements are located, the resolution may exempt from real property taxation not more than seventy-five per cent of further improvements to a parcel of land that directly benefits from the public infrastructure improvements, for a period of not more than ten years. The resolution shall specify the percentage of the further improvements to be exempted and the life of the exemption.

(C)(1) A board of township trustees may adopt, by unanimous vote, a resolution creating an incentive district and declaring improvements to parcels within the district to be a public purpose and, except as provided in division (C)(2) of this section, exempt from taxation as provided in this section, but no board of township trustees of a township that has a population that exceeds twenty-five thousand, as shown by the most recent federal decennial census, shall adopt a resolution that creates an incentive district if the sum of the taxable value of real property in the proposed district for the preceding tax year and the taxable value of all real property in the township that would have been taxable in the preceding year were it not for the fact that the property was in an existing incentive district and therefore exempt from taxation exceeds twenty-five per cent of the taxable value of real property in the township for the preceding tax year. The district shall be located within the unincorporated area of the township and shall not include any territory that is included within a district created under division (B) of section 5709.78 of the Revised Code. The resolution shall delineate the boundary of the proposed district and specifically identify each parcel within the district. A proposed district may not include any parcel that is or has been exempted from taxation under division (B) of this section or that is or has been within another district created under this division. A resolution may create more than one such district, and more than one resolution may be adopted under division (C)(1) of this section.

(2)(a) Not later than thirty days prior to adopting a resolution under division (C)(1) of this section, if the township intends to apply for exemptions from taxation under section 5709.911 of the Revised Code on behalf of owners of real property located within the proposed incentive district, the board shall conduct a public hearing on the proposed resolution. Not later than thirty days prior to the public hearing, the board shall give notice of the public hearing and the proposed resolution by first class mail to every real property owner whose property is located within the boundaries of the proposed incentive district that is the subject of the proposed resolution. The notice shall include a map of the proposed incentive district on which the board of township trustees shall have delineated an overlay. The notice shall inform the property owner of the owner's right to exclude the owner's



property from the incentive district if both of the following conditions are met:

(i) The owner's entire parcel of property will not be located within the overlay.

(ii) The owner has submitted a statement to the board of county commissioners of the county in which the parcel is located indicating the owner's intent to seek a tax exemption for improvements to the owner's parcel under division (A) or (B) of section 5709.78 of the Revised Code within the next five years.

When both of the preceding conditions are met, the owner may exclude the owner's property from the incentive district by submitting a written response in accordance with division (C)(2)(b) of this section. The notice also shall include information detailing the required contents of the response, the address to which the response may be mailed, and the deadline for submitting the response.

(b) Any owner of real property located within the boundaries of an incentive district proposed under division (C)(1) of this section who meets the conditions specified in divisions (C)(2)(a)(i) and (ii) of this section may exclude the property from the proposed incentive district by submitting a written response to the board not later than forty-five days after the postmark date on the notice required under division (C)(2)(a) of this section. The response shall include a copy of the statement submitted under division (C)(2)(a)(ii) of this section. The response shall be sent by first class mail or delivered in person at a public hearing held by the board under division (C)(2)(a) of this section. The response shall conform to any content requirements that may be established by the board and included in the notice provided under division (C)(2)(a) of this section. In the response, property owners may identify a parcel by street address, by the manner in which it is identified in the resolution, or by other means allowing the identity of the parcel to be ascertained.

(c) Before adopting a resolution under division (C)(1) of this section, the board shall amend the resolution to exclude any parcel for which a written response has been submitted under division (C)(2)(b) of this section. A township shall not apply for exemptions from taxation under section 5709.911 of the Revised Code for any such parcel, and service payments may not be required from the owner of the parcel. Improvements to a parcel excluded from an incentive district under this division may be exempted from taxation under division (B) of this section pursuant to a resolution adopted under that division or under any other section of the Revised Code under which the parcel qualifies.

(3)(a) A resolution adopted under division (C)(1) of this section shall specify the life of the incentive district and the percentage of the improvements to be exempted, shall designate the public infrastructure improvements made, to be made, or in the process of being made, that benefit or serve, or, once made, will benefit or serve parcels in the district. The resolution also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the resolution. The project identified may, but need not be, the project under division (C)(3)(b) of this section that places real property in use for commercial or industrial purposes.

A resolution adopted under division (C)(1) of this section on or after March 30, 2006, shall not designate police or fire equipment as public infrastructure improvements, and no service payment provided for in section 5709.74 of the Revised Code and received by the township under the resolution shall be used for police or fire equipment.

(b) A resolution adopted under division (C)(1) of this section may authorize the use of service

payments provided for in section 5709.74 of the Revised Code for the purpose of housing renovations within the incentive district, provided that the resolution also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans, and grants to persons for the purpose of housing renovations within the district. The resolution shall designate the parcels within the district that are eligible for housing renovations. The resolution shall state separately the amount or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the purpose of housing renovations.

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the incentive district is or will be located, and subject to division (E) of this section, the life of an incentive district shall not exceed ten years, and the percentage of improvements to be exempted shall not exceed seventy-five per cent. With approval of the board of education, the life of a district may be not more than thirty years, and the percentage of improvements to be exempted may be not more than one hundred per cent. The approval of a board of education shall be obtained in the manner provided in division (D) of this section.

(D) Improvements with respect to a parcel may be exempted from taxation under division (B) of this section, and improvements to parcels within an incentive district may be exempted from taxation under division (C) of this section, for up to ten years or, with the approval of the board of education of the city, local, or exempted village school district within which the parcel or district is located, for up to thirty years. The percentage of the improvements exempted from taxation may, with such approval, exceed seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting a resolution under this section declaring improvements to be a public purpose that is subject to approval by a board of education under this division, the board of township trustees shall deliver to the board of education a notice stating its intent to adopt a resolution making that declaration. The notice regarding improvements with respect to a parcel under division (B) of this section shall identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvements that would be exempted, and indicate the date on which the board of township trustees intends to adopt the resolution. The notice regarding improvements made under division (C) of this section to parcels within an incentive district shall delineate the boundaries of the district, specifically identify each parcel within the district, identify each anticipated improvement in the district, provide an estimate of the true value in money of each such improvement, specify the life of the district and the percentage of improvements that would be exempted, and indicate the date on which the board of township trustees intends to adopt the resolution. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice; may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvements to be exempted in excess of seventy-five per cent, or both; or may approve the exemption on the condition that the board of township trustees and the board of education negotiate an agreement providing for compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and

subsequent years of the exemption period or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage of the taxes that would be payable on the portion of the improvements in excess of seventy-five per cent were that portion to be subject to taxation, or other mutually agreeable compensation.

The board of education shall certify its resolution to the board of township trustees not later than fourteen days prior to the date the board of township trustees intends to adopt the resolution as indicated in the notice. If the board of education and the board of township trustees negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for the number of years specified in the resolution or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the resolution. In either case, if the board of education and the board of township trustees fail to negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for not more than ten years, and shall not exempt more than seventy-five per cent of the improvements from taxation. If the board of education fails to certify a resolution to the board of township trustees within the time prescribed by this section, the board of township trustees thereupon may adopt the resolution and may declare the improvements a public purpose for up to thirty years or, in the case of exemption percentages proposed in excess of seventy-five per cent, for the exemption percentage specified in the resolution. The board of township trustees may adopt the resolution at any time after the board of education certifies its resolution approving the exemption to the board of township trustees, or, if the board of education approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board of education and the board of township trustees. If a mutually acceptable compensation agreement is negotiated between the board of township trustees and the board of education, including agreements for payments in lieu of taxes under section 5709.74 of the Revised Code, the board of township trustees shall compensate the joint vocational school district within which the parcel or district is located at the same rate and under the same terms received by the city, local, or exempted village school district.

If a board of education has adopted a resolution waiving its right to approve exemptions from taxation under this section and the resolution remains in effect, approval of such exemptions by the board of education is not required under division (D) of this section. If a board of education has adopted a resolution allowing a board of township trustees to deliver the notice required under division (D) of this section fewer than forty-five business days prior to adoption of the resolution by the board of township trustees, the board of township trustees shall deliver the notice to the board of education not later than the number of days prior to the adoption as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve exemptions or shortening the notification period, the board of education shall certify a copy of the resolution to the board of township trustees. If the board of education rescinds the resolution, it shall certify notice of the rescission to the board of township trustees.

If the board of township trustees is not required by division (D) of this section to notify the board of education of the board of township trustees' intent to declare improvements to be a public purpose, the board of township trustees shall comply with the notice requirements imposed under section 5709.83 of the Revised Code before taking formal action to adopt the resolution making that

declaration, unless the board of education has adopted a resolution under that section waiving its right to receive the notice.

(E)(1) If a proposed resolution under division (C)(1) of this section exempts improvements with respect to a parcel within an incentive district for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the resolution the board of township trustees shall deliver to the board of county commissioners of the county within which the incentive district is or will be located a notice that states its intent to adopt a resolution creating an incentive district. The notice shall include a copy of the proposed resolution, identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period of time for which the improvements would be exempted from taxation, specify the percentage of the improvements that would be exempted from taxation, and indicate the date on which the board of township trustees intends to adopt the resolution.

(2) The board of county commissioners, by resolution adopted by a majority of the board, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both. If the board of county commissioners objects, the board may negotiate a mutually acceptable compensation agreement with the board of township trustees. In no case shall the compensation provided to the board of county commissioners exceed the property taxes foregone due to the exemption. If the board of county commissioners objects, and the board of county commissioners and board of township trustees fail to negotiate a mutually acceptable compensation agreement, the resolution adopted under division (C)(1) of this section shall provide to the board of county commissioners compensation in the eleventh and subsequent years of the exemption period equal in value to not more than fifty per cent of the taxes that would be payable to the county or, if the board of county commissioner's objection includes an objection to an exemption percentage in excess of seventy-five per cent, compensation equal in value to not more than fifty per cent of the taxes that would be payable to the county, on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of county commissioners shall certify its resolution to the board of township trustees not later than thirty days after receipt of the notice.

(3) If the board of county commissioners does not object or fails to certify its resolution objecting to an exemption within thirty days after receipt of the notice, the board of township trustees may adopt its resolution, and no compensation shall be provided to the board of county commissioners. If the board of county commissioners timely certifies its resolution objecting to the trustees' resolution, the board of township trustees may adopt its resolution at any time after a mutually acceptable compensation agreement is agreed to by the board of county commissioners and the board of township trustees, or, if no compensation agreement is negotiated, at any time after the board of township trustees agrees in the proposed resolution to provide compensation to the board of county commissioners of fifty per cent of the taxes that would be payable to the county in the eleventh and subsequent years of the exemption period or on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation.

(F) Service payments in lieu of taxes that are attributable to any amount by which the effective tax rate of either a renewal levy with an increase or a replacement levy exceeds the effective

tax rate of the levy renewed or replaced, or that are attributable to an additional levy, for a levy authorized by the voters for any of the following purposes on or after January 1, 2006, and which are provided pursuant to a resolution creating an incentive district under division (C)(1) of this section that is adopted on or after January 1, 2006, shall be distributed to the appropriate taxing authority as required under division (C) of section 5709.74 of the Revised Code in an amount equal to the amount of taxes from that additional levy or from the increase in the effective tax rate of such renewal or replacement levy that would have been payable to that taxing authority from the following levies were it not for the exemption authorized under division (C) of this section:

(1) A tax levied under division (L) of section 5705.19 or section 5705.191 or 5705.222 of the Revised Code for community developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code;

(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;

(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;

(4) A tax levied by a joint-county district or by a county under section 5705.19, 5705.191, or 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services or families;

(5) A tax levied under section 5705.23 of the Revised Code for library purposes;

(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;

(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code;

(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;

(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;

(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;

(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;

(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.

(G) An exemption from taxation granted under this section commences with the tax year specified in the resolution so long as the year specified in the resolution commences after the effective date of the resolution. If the resolution specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after the effective date of the resolution. In lieu of stating a specific year, the resolution may provide that the exemption commences in the tax year in which the value of an improvement exceeds a specified amount or in which the construction of one or more improvements is completed, provided that such tax year commences after the effective date of the

resolution. With respect to the exemption of improvements to parcels under division (B) of this section, the resolution may allow for the exemption to commence in different tax years on a parcel-by-parcel basis, with a separate exemption term specified for each parcel.

Except as otherwise provided in this division, the exemption ends on the date specified in the resolution as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the public infrastructure improvements and housing renovations are paid in full from the township public improvement tax increment equivalent fund established under section 5709.75 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel or within an incentive district may end on a later date, as specified in the resolution, if the board of township trustees and the board of education of the city, local, or exempted village school district within which the parcel or district is located have entered into a compensation agreement under section 5709.82 of the Revised Code with respect to the improvement and the board of education has approved the term of the exemption under division (D) of this section, but in no case shall the improvement be exempted from taxation for more than thirty years. The board of township trustees may, by majority vote, adopt a resolution permitting the township to enter into such agreements as the board finds necessary or appropriate to provide for the construction or undertaking of public infrastructure improvements and housing renovations. Any exemption shall be claimed and allowed in the same or a similar manner as in the case of other real property exemptions. If an exemption status changes during a tax year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

(H) The board of township trustees may issue the notes of the township to finance all costs pertaining to the construction or undertaking of public infrastructure improvements and housing renovations made pursuant to this section. The notes shall be signed by the board and attested by the signature of the township fiscal officer, shall bear interest not to exceed the rate provided in section 9.95 of the Revised Code, and are not subject to Chapter 133. of the Revised Code. The resolution authorizing the issuance of the notes shall pledge the funds of the township public improvement tax increment equivalent fund established pursuant to section 5709.75 of the Revised Code to pay the interest on and principal of the notes. The notes, which may contain a clause permitting prepayment at the option of the board, shall be offered for sale on the open market or given to the vendor or contractor if no sale is made.

(I) The township, not later than fifteen days after the adoption of a resolution under this section, shall submit to the director of development services a copy of the resolution. On or before the thirty-first day of March of each year, the township shall submit a status report to the director of development services. The report shall indicate, in the manner prescribed by the director, the progress of the project during each year that the exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from the fund created under section 5709.75 of the Revised Code; a description of the public infrastructure improvements and housing renovations financed with the expenditures; and a quantitative summary of changes in private investment resulting from each project.

(J) Nothing in this section shall be construed to prohibit a board of township trustees from declaring to be a public purpose improvements with respect to more than one parcel.

If a parcel is located in a new community district in which the new community authority

imposes a community development charge on the basis of rentals received from leases of real property as described in division (L)(2) of section 349.01 of the Revised Code, the parcel may not be exempted from taxation under this section.

(K) A board of township trustees that adopted a resolution under this section prior to July 21, 1994, may amend that resolution to include any additional public infrastructure improvement. A board of township trustees that seeks by the amendment to utilize money from its township public improvement tax increment equivalent fund for land acquisition in aid of industry, commerce, distribution, or research, demolition on private property, or stormwater and flood remediation projects may do so provided that the board currently is a party to a hold-harmless agreement with the board of education of the city, local, or exempted village school district within the territory of which are located the parcels that are subject to an exemption. For the purposes of this division, a "hold-harmless agreement" means an agreement under which the board of township trustees agrees to compensate the school district for one hundred per cent of the tax revenue that the school district would have received from further improvements to parcels designated in the resolution were it not for the exemption granted by the resolution.

(L) Notwithstanding the limitation prescribed by division (D) of this section on the number of years that improvements to a parcel or parcels may be exempted from taxation, a board of trustees of a township with a population of fifteen thousand or more may amend a resolution originally adopted under this section before December 31, 1994, to extend the exemption of improvements to the parcel or parcels included in such resolution for an additional period not to exceed fifteen years. The amendment shall not increase the percentage of improvements to the parcel or parcels exempted from taxation. Before adopting an amendment authorized under this division, the board of township trustees shall obtain the approval of each board of education of the city, local, or exempted village school district within which the exempted parcels are located in the manner required under division (D) of this section, except that (1) the board of education may approve the exemption on the condition that the board of township trustees and the board of education negotiate an agreement providing for compensation to the school district equal in value to the amount of taxes the district forgoes in each year the exemption is extended pursuant to this division or any other mutually agreeable compensation and (2) if the board of education fails to certify a resolution approving the amendment to the board of township trustees within the time prescribed by division (D) of this section, the board of township trustees shall not adopt the amendment authorized under this division.

No approval under this division shall be required from a board of education that has adopted a resolution waiving its right to approve exemptions from taxation pursuant to division (D) of this section. If the board of education has adopted such a resolution, the board of township trustees shall comply with the notice requirements imposed under section 5709.83 of the Revised Code before taking formal action to adopt an amendment authorized under this division unless the board of education has adopted a resolution under that section waiving its right to receive the notice. Not later than fourteen days before adopting an amendment authorized under this division, the board of township trustees shall deliver a notice identical to a notice required under section 5709.83 of the Revised Code to the board of county commissioners of each county in which the exempted parcels are located.

**Sec. 5709.92.**

**Sec. 5709.93.****Sec. 5709.94.**

**Sec. 5713.30.** As used in sections 5713.31 to 5713.37 and 5715.01 of the Revised Code:

(A) "Land devoted exclusively to agricultural use" means:

(1) Tracts, lots, or parcels of land totaling not less than ten acres to which, during the three calendar years prior to the year in which application is filed under section 5713.31 of the Revised Code, and through the last day of May of such year, one or more of the following apply:

(a) The tracts, lots, or parcels of land were devoted exclusively to commercial animal or poultry husbandry, aquaculture, algaculture meaning the farming of algae, apiculture, the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental trees, sod, or flowers, or the growth of timber for a noncommercial purpose, if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use.

(b) The tracts, lots, or parcels of land were devoted exclusively to biodiesel production, biomass energy production, electric or heat energy production, or biologically derived methane gas production if the land on which the production facility is located is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use, provided that at least fifty per cent of the feedstock used in the production was derived from parcels of land under common ownership or leasehold.

(c) The tracts, lots, or parcels of land were devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with an agency of the federal government.

(2) Tracts, lots, or parcels of land totaling less than ten acres that, during the three calendar years prior to the year in which application is filed under section 5713.31 of the Revised Code and through the last day of May of such year, were devoted exclusively to commercial animal or poultry husbandry, aquaculture, algaculture meaning the farming of algae, apiculture, the production for a commercial purpose of field crops, tobacco, fruits, vegetables, timber, nursery stock, ornamental trees, sod, or flowers where such activities produced an average yearly gross income of at least twenty-five hundred dollars during such three-year period or where there is evidence of an anticipated gross income of such amount from such activities during the tax year in which application is made, or were devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with an agency of the federal government;

(3) A tract, lot, or parcel of land taxed under sections 5713.22 to 5713.26 of the Revised Code is not land devoted exclusively to agricultural use.

(4) Tracts, lots, or parcels of land, or portions thereof that, during the previous three consecutive calendar years have been designated as land devoted exclusively to agricultural use, but such land has been lying idle or fallow for up to one year and no action has occurred to such land that is either inconsistent with the return of it to agricultural production or converts the land devoted exclusively to agricultural use as defined in this section. Such land shall remain designated as land devoted exclusively to agricultural use provided that beyond one year, but less than three years, the landowner proves good cause as determined by the board of revision.

(5) Tracts, lots, or parcels of land, or portions thereof that, during the previous three



consecutive calendar years have been designated as land devoted exclusively to agricultural use, but such land has been lying idle or fallow because of dredged material being stored or deposited on such land pursuant to a contract between the land's owner and the department of natural resources or the United States army corps of engineers and no action has occurred to the land that is either inconsistent with the return of it to agricultural production or converts the land devoted exclusively to agricultural use. Such land shall remain designated as land devoted exclusively to agricultural use until the last year in which dredged material is stored or deposited on the land pursuant to such a contract, but not to exceed five years.

"Land devoted exclusively to agricultural use" includes tracts, lots, or parcels of land or portions thereof that are used for conservation practices, provided that the tracts, lots, or parcels of land or portions thereof comprise twenty-five per cent or less of the total of the tracts, lots, or parcels of land that satisfy the criteria established in division (A)(1), (2), (4), or (5) of this section together with the tracts, lots, or parcels of land or portions thereof that are used for conservation practices.

Notwithstanding any other provision of law to the contrary, the existence of agritourism on a tract, lot, or parcel of land that otherwise meets the definition of "land devoted exclusively to agricultural use" as defined in this division does not disqualify that tract, lot, or parcel from valuation under sections 5713.30 to 5713.37 and 5715.01 of the Revised Code.

A tract, lot, parcel, or portion thereof on which medical marijuana, as defined by section 3796.01 of the Revised Code, is cultivated or processed is not land devoted exclusively to agricultural use.

(B) "Conversion of land devoted exclusively to agricultural use" means any of the following:

(1) The failure of the owner of land devoted exclusively to agricultural use during the next preceding calendar year to file a renewal application under section 5713.31 of the Revised Code without good cause as determined by the board of revision;

(2) The failure of the new owner of such land to file an initial application under that section without good cause as determined by the board of revision;

(3) The failure of such land or portion thereof to qualify as land devoted exclusively to agricultural use for the current calendar year as requested by an application filed under such section;

(4) The failure of the owner of the land described in division (A)(4) or (5) of this section to act on such land in a manner that is consistent with the return of the land to agricultural production after three years.

The construction or installation of an energy facility, as defined in section 5727.01 of the Revised Code, on a portion of a tract, lot, or parcel of land devoted exclusively to agricultural use shall not cause the remaining portion of the tract, lot, or parcel to be regarded as a conversion of land devoted exclusively to agricultural use if the remaining portion of the tract, lot, or parcel continues to be devoted exclusively to agricultural use.

(C) "Tax savings" means the difference between the dollar amount of real property taxes levied in any year on land valued and assessed in accordance with its current agricultural use value and the dollar amount of real property taxes that would have been levied upon such land if it had been valued and assessed for such year in accordance with Section 2 of Article XII, Ohio Constitution.

(D) "Owner" includes, but is not limited to, any person owning a fee simple, fee tail, or life

estate or a buyer on a land installment contract.

(E) "Conservation practices" are practices used to abate soil erosion as required in the management of the farming operation, and include, but are not limited to, the installation, construction, development, planting, or use of grass waterways, terraces, diversions, filter strips, field borders, windbreaks, riparian buffers, wetlands, ponds, and cover crops for that purpose.

(F) "Wetlands" has the same meaning as in section 6111.02 of the Revised Code.

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

(H) "Biologically derived methane gas" means gas from the anaerobic digestion of organic materials, including animal waste and agricultural crops and residues.

(I) "Biomass energy" means energy that is produced from organic material derived from plants or animals and available on a renewable basis, including, but not limited to, agricultural crops, tree crops, crop by-products, and residues.

(J) "Electric or heat energy" means electric or heat energy generated from manure, cornstalks, soybean waste, or other agricultural feedstocks.

(K) "Dredged material" means material that is excavated or dredged from waters of this state. "Dredged material" does not include material resulting from normal farming, silviculture, and ranching activities, such as plowing, cultivating, seeding, and harvesting, for production of food, fiber, and forest products.

~~(K)~~(L) "Agritourism" has the same meaning as in section 901.80 of the Revised Code.

**Sec. 5715.01.** (A) The tax commissioner shall direct and supervise the assessment for taxation of all real property. The commissioner shall adopt, prescribe, and promulgate rules for the determination of true value and taxable value of real property by uniform rule for such values and for the determination of the current agricultural use value of land devoted exclusively to agricultural use.

(1) The uniform rules shall prescribe methods of determining the true value and taxable value of real property. The rules shall provide that in determining the true value of lands or improvements thereon for tax purposes, all facts and circumstances relating to the value of the property, its availability for the purposes for which it is constructed or being used, its obsolete character, if any, the income capacity of the property, if any, and any other factor that tends to prove its true value shall be used. In determining the true value of minerals or rights to minerals for the purpose of real property taxation, the tax commissioner shall not include in the value of the minerals or rights to minerals the value of any tangible personal property used in the recovery of those minerals.

(2) The uniform rules shall prescribe the method for determining the current agricultural use value of land devoted exclusively to agricultural use, which method shall reflect standard and modern appraisal techniques that take into consideration the productivity of the soil under normal management practices, typical cropping and land use patterns, the average price patterns of the crops and products produced and the typical production costs to determine the net income potential to be capitalized, and other pertinent factors.

In determining the agricultural land capitalization rate to be applied to the net income potential from agricultural use, the commissioner shall use standard and modern appraisal

techniques. In calculating the capitalization rate for any year, the commissioner shall comply with both of the following requirements:

(a) The commissioner shall use an equity yield rate equal to the greater of (i) the average of the total rates of return on farm equity for the twenty-five most recent years for which those rates have been calculated and published by the United States department of agriculture economic research service or another published source or (ii) the loan interest rate the commissioner uses for that year to calculate the capitalization rate;

(b) The commissioner shall assume that the holding period for agricultural land is twenty-five years for the purpose of computing buildup of equity or appreciation with respect to that land.

The commissioner shall add to the overall capitalization rate a tax additur. The sum of the overall capitalization rate and the tax additur shall represent as nearly as possible the rate of return a prudent investor would expect from an average or typical farm in this state considering only agricultural factors.

The commissioner shall annually determine and announce the overall capitalization rate, tax additur, agricultural land capitalization rate, and the individual components used in computing such amounts in a determination, finding, computation, or order of the commissioner published simultaneously with the commissioner's annual publication of the per-acre agricultural use values for each soil type.

(3) Notwithstanding any other provision of this chapter and Chapter 5713. of the Revised Code, the current agricultural use value of land devoted exclusively to agricultural use shall equal the following amounts for the years specified:

(a) In counties that undergo a reappraisal or triennial update in 2017, the current agricultural use value of the land for each of the 2017, 2018, and 2019 tax years shall equal the sum of the following amounts:

(i) The current agricultural use value of the land for that tax year, as determined under this section and section 5713.31 of the Revised Code, and rules adopted pursuant those sections, without regard to the adjustment under division (A)(3)(a)(ii) of this section;

(ii) One-half of the amount, if any, by which the value of the land for the 2016 tax year, as determined under this section, section 5713.31 of the Revised Code, and the rules adopted pursuant those sections and issued by the tax commissioner for counties undergoing a reappraisal or triennial update in the 2016 tax year, exceeds the value determined under division (A)(3)(a)(i) of this section.

(b) In counties that undergo a reappraisal or triennial update in 2018, the current agricultural use value of the land for each of the 2018, 2019, and 2020 tax years shall equal the sum of the following amounts:

(i) The current agricultural use value of the land for that tax year, as determined under this section and section 5713.31 of the Revised Code, and rules adopted pursuant those sections, without regard to the adjustment under division (A)(3)(b)(ii) of this section;

(ii) One-half of the amount, if any, by which the value of the land for the 2017 tax year, as determined under this section, section 5713.31 of the Revised Code, and the rules adopted pursuant those sections and issued by the tax commissioner for counties undergoing a reappraisal or triennial update in the 2017 tax year, exceeds the value determined under division (A)(3)(b)(i) of this section.

(c) In counties that undergo a reappraisal or triennial update in 2019, the current agricultural

use value of the land for each of the 2019, 2020, and 2021 tax years shall equal the sum of the following amounts:

(i) The current agricultural use value of the land for that tax year, as determined under this section and section 5713.31 of the Revised Code, and rules adopted pursuant those sections, without regard to the adjustment under division (A)(3)(c)(ii) of this section;

(ii) One-half of the amount, if any, by which the value of the land for the 2018 tax year, as determined under this section, section 5713.31 of the Revised Code, and the rules adopted pursuant those sections and issued by the tax commissioner for counties undergoing a reappraisal or triennial update in the 2018 tax year, exceeds the value determined under division (A)(3)(c)(i) of this section.

(B) The taxable value shall be that per cent of true value in money, or current agricultural use value in the case of land valued in accordance with section 5713.31 of the Revised Code, the commissioner by rule establishes, but it shall not exceed thirty-five per cent. The uniform rules shall also prescribe methods of making the appraisals set forth in section 5713.03 of the Revised Code. The taxable value of each tract, lot, or parcel of real property and improvements thereon, determined in accordance with the uniform rules and methods prescribed thereby, shall be the taxable value of the tract, lot, or parcel for all purposes of sections 5713.01 to 5713.26, 5715.01 to 5715.51, and 5717.01 to 5717.06 of the Revised Code. County auditors shall, under the direction and supervision of the commissioner, be the chief assessing officers of their respective counties, and shall list and value the real property within their respective counties for taxation in accordance with this section and sections 5713.03 and 5713.31 of the Revised Code and with such rules of the commissioner. There shall also be a board in each county, known as the county board of revision, which shall hear complaints and revise assessments of real property for taxation.

(C) The commissioner shall neither adopt nor enforce any rule that requires true value for any tax year to be any value other than the true value in money on the tax lien date of such tax year or that requires taxable value to be obtained in any way other than by reducing the true value, or in the case of land valued in accordance with section 5713.31 of the Revised Code, its current agricultural use value, by a specified, uniform percentage.

**Sec. 5715.39.** (A) The tax commissioner may remit real property taxes, manufactured home taxes, penalties, and interest found by the commissioner to have been illegally assessed. The commissioner also may remit any penalty charged against any real property or manufactured or mobile home that was the subject of an application for exemption from taxation under section 5715.27 of the Revised Code if the commissioner determines that the applicant requested such exemption in good faith. The commissioner shall include notice of the remission in the commissioner's certification to the county auditor required under that section.

(B) The county auditor, upon consultation with the county treasurer, shall remit a penalty for late payment of any real property taxes or manufactured home taxes when:

(1) The taxpayer could not make timely payment of the tax because of the negligence or error of the county auditor or county treasurer in the performance of a statutory duty relating to the levy or collection of such tax.

(2) In cases other than those described in division (B)(1) of this section, and except as provided in division (B)(5) of this section, the taxpayer failed to receive a tax bill or a correct tax bill, and the taxpayer made a good faith effort to obtain such bill within thirty days after the last day for

payment of the tax.

(3) The tax was not timely paid because of the death or serious injury of the taxpayer, or the taxpayer's confinement in a hospital within sixty days preceding the last day for payment of the tax if, in any case, the tax was subsequently paid within sixty days after the last day for payment of such tax.

(4) The taxpayer demonstrates that the full payment was properly deposited in the mail in sufficient time for the envelope to be postmarked by the United States postal service on or before the last day for payment of such tax. A private meter postmark on an envelope is not a valid postmark for purposes of establishing the date of payment of such tax.

(5) With respect to the first payment due after a taxpayer fully satisfies a mortgage against a parcel of real property, the mortgagee failed to notify the treasurer of the satisfaction of the mortgage, and the tax bill was not sent to the taxpayer.

(C) If the auditor determines that remission is not required under division (B) of this section, the auditor shall present the application to the board of revision. The board of revision shall review the auditor's determination and remit a penalty for late payment of any real property taxes or manufactured homes taxes if the board determines that any of divisions (B)(1) to (5) of this section applies or if it determines that the taxpayer's failure to make timely payment of the tax is due to reasonable cause and not willful neglect.

(D) The commissioner may issue orders and instructions for the uniform implementation of this section by all county boards of revision, county auditors, and county treasurers, and such orders and instructions shall be followed by such officers and boards.

(E) This section shall not provide to the taxpayer any remedy with respect to any matter that the taxpayer may be authorized to complain of under section 4503.06, 5715.19, 5717.02, or 5727.47 of the Revised Code.

**Sec. 5725.22.** (A) The treasurer of state shall maintain an intangible property tax list of taxes levied by section 5707.03 of the Revised Code and certified by the tax commissioner pursuant to sections 5711.13, 5725.08, 5725.16, and 5727.15 of the Revised Code, and a separate list of taxes levied by section 5725.18 of the Revised Code and certified by the superintendent of insurance pursuant to section 5725.20 of the Revised Code.

(B)(1) With respect to taxes levied under section 5725.18 of the Revised Code, the treasurer of state, upon receipt of an assessment, shall compute the taxes at the rates prescribed by law and enter the taxes on the proper tax list. The treasurer shall collect, and the taxpayer shall pay, all such taxes and any interest applicable thereto. Payments may be made by mail, in person, or by any other means authorized by the treasurer. The treasurer shall render a daily itemized statement to the superintendent of insurance of the amount of taxes collected and the name of the domestic insurance company from whom collected. The treasurer of state may adopt rules concerning the methods and timeliness of payments under this division.

(2) With respect to taxes levied under section 5707.03 of the Revised Code, any assessment certified to the treasurer of state shall reflect the taxes computed at the rates prescribed by law. Upon receipt of such an assessment, the treasurer shall enter the taxes on the proper tax list. The tax commissioner shall collect, and the taxpayer shall pay, all such taxes and any interest applicable thereto. Payments may be made by mail, in person, or by any other means authorized by the

commissioner. The commissioner shall immediately forward to the treasurer any payments received under this division, together with any information necessary for the treasurer to properly credit such payments. The commissioner may adopt rules concerning the method and timeliness of payments under this division.

(C) Each tax bill issued pursuant to this section shall separately reflect the taxes due, interest, if any, due date, and any other information considered necessary. With respect to taxes levied under section 5725.18 of the Revised Code, the last day on which payment may be made without penalty shall be the fifteenth day of June, unless that day is not a business day as defined in section 5709.40 of the Revised Code, in which case the payment may be made on the next business day. With respect to taxes levied under section 5707.03 of the Revised Code, the last day on which payment may be made without penalty shall be at least twenty but not more than thirty days from the date of mailing the tax bill. The treasurer of state or tax commissioner, as appropriate, shall issue the tax bill and, if the tax bill is issued by mail, the mailing thereof shall be prima-facie evidence of receipt thereof by the taxpayer.

The treasurer or commissioner, as appropriate, shall refund taxes as provided in this section, but no refund shall be made to a taxpayer having a delinquent claim certified pursuant to this section that remains unpaid. The treasurer or commissioner may consult the attorney general regarding such claims. Refunds shall be paid from the tax refund fund created by section 5703.052 of the Revised Code.

(D)(1) Within twenty days after receipt of any preliminary assessment of taxes levied under section 5725.18 of the Revised Code, the treasurer of state shall issue a tax bill, but if such preliminary assessment reflects a late filed tax return, the treasurer of state shall add interest as provided in division (A) of section 5725.221 of the Revised Code and issue a tax bill.

(2) After receipt of any amended or final assessment of taxes levied under section 5725.18 of the Revised Code, the treasurer of state shall ascertain the difference between the total taxes computed on such assessment and the total taxes computed on the most recent assessment certified for the same tax year. If the difference is a deficiency, the treasurer of state shall add interest as provided in division (B)(1) of section 5725.221 of the Revised Code and issue a tax bill. Unless an exigency exists, the treasurer shall issue the tax bill on or before the fifteenth day of May. In the case of an exigency, the treasurer shall issue the tax bill as soon as possible after the fifteenth day of May and may extend the due date for payment of the tax prescribed by division (C) of this section. If the difference is an excess, the treasurer of state shall add interest as provided in division (B)(2) of section 5725.221 of the Revised Code and certify the name of the taxpayer and the amount to be refunded to the director of budget and management for payment to the taxpayer. If the taxpayer has a deficiency for one tax year and an excess for another tax year, or any combination thereof for more than two tax years, the treasurer of state may determine the net result after adding interest, if applicable, and, depending on such result, proceed to issue a tax bill or certify a refund.

(E)(1) Except as provided in division (E)(2) of this section, within twenty days after certifying to the treasurer of state an amended or final assessment, or a preliminary assessment of a dealer in intangibles that has failed to file a report or disclose taxable property, the tax commissioner shall ascertain the difference between the total taxes computed on such assessment and the total taxes computed on the most recent assessment certified for the same tax year, if any. If the difference is a

deficiency, the commissioner shall add interest as provided in division (B)(1) of section 5725.221 of the Revised Code and issue a tax bill. If the difference is an excess, the commissioner shall add interest as provided in division (B)(2) of section 5725.221 of the Revised Code and certify the name of the taxpayer and the amount to be refunded to the director of budget and management for payment to the taxpayer. If the taxpayer has a deficiency for one tax year and excess for another tax year, or any combination thereof for more than two tax years, the commissioner may determine the net result after adding interest, if applicable, and, depending on such result, proceed to mail a tax bill or certify a refund.

(2) The tax commissioner may issue a tax bill for any deficiency resulting from an assessment at the time the commissioner issues the assessment.

(F) With respect to taxes levied under section 5707.03 of the Revised Code, if a taxpayer fails to pay all taxes and interest, if any, on or before the due date shown on the tax bill but makes payment within ten calendar days of such date, the tax commissioner shall add a penalty equal to five per cent of the taxes due. If payment is not made within ten days of such date, the commissioner shall add a penalty equal to ten per cent of the taxes due. The commissioner shall prepare a delinquent claim for each tax bill on which penalties were added and certify such claims to the attorney general for collection. For each claim certified by the commissioner, the attorney general shall proceed to collect the delinquent taxes, penalties, and interest thereon in the manner prescribed by law.

(G) With respect to taxes levied under section 5725.18 of the Revised Code, if a taxpayer fails to pay all taxes and interest, if any, on or before the due date shown on the tax bill issued by the treasurer of state, the treasurer shall add a penalty equal to five hundred dollars for each month the taxpayer fails to pay all taxes and interest due. The treasurer may add an additional penalty, not to exceed ten per cent of the taxes and interest due, if the taxpayer fails to demonstrate that the taxpayer made a good faith effort to pay all taxes and interest on or before the due date shown on the tax bill. The treasurer shall prepare a delinquent claim for each tax bill on which penalties were added and certify such claims to the attorney general for collection. The attorney general shall transmit a copy of each claim certified by the treasurer to the superintendent of insurance. For each claim certified by the treasurer, the attorney general shall proceed to collect the delinquent taxes, penalties, and interest thereon in the manner prescribed by law.

**Sec. 5725.33.** (A) Except as otherwise provided in this section, terms used in this section have the same meaning as section 45D of the Internal Revenue Code, any related proposed, temporary, or final regulations promulgated under the Internal Revenue Code, any rules or guidance of the internal revenue service or the United States department of the treasury, and any related rules or guidance issued by the community development financial institutions fund of the United States department of the treasury, as such law, regulations, rules, and guidance exist on October 16, 2009.

As used in this section:

(1) "Adjusted purchase price" means the amount paid for the portion of a qualified equity investment approved or certified by the director of development services for a qualified community development entity in accordance with rules adopted under division (E) of this section.

(2) "Applicable percentage" means zero per cent for each of the first two credit allowance dates, seven per cent for the third credit allowance date, and eight per cent for the four following credit allowance dates.

(3) "Credit allowance date" means the date, on or after January 1, 2010, a qualified equity investment is made and each of the six anniversary dates thereafter. For qualified equity investments made after October 16, 2009, but before January 1, 2010, the initial credit allowance date is January 1, 2010, and each of the six anniversary dates thereafter is on the first day of January of each year.

(4) "Qualified community development entity" includes only entities:

(a) That have entered into an allocation agreement with the community development financial institutions fund of the United States department of the treasury with respect to credits authorized by section 45D of the Internal Revenue Code;

(b) Whose service area includes any portion of this state; and

(c) That will designate an equity investment in such entities as a qualified equity investment for purposes of both section 45D of the Internal Revenue Code and this section.

(5) "Qualified equity investment" is limited to an equity investment in a qualified community development entity that:

(a) Is acquired after October 16, 2009, at its original issuance solely in exchange for cash;

(b) Has at least eighty-five per cent of its cash purchase price used by the qualified community development entity to make qualified low-income community investments in qualified active low-income community businesses in this state, provided that in the seventh year after a qualified equity investment is made, only seventy-five per cent of such cash purchase price must be used by the qualified community development entity to make qualified low-income community investments in those businesses; and

(c) Is designated by the issuer as a qualified equity investment.

"Qualified equity investment" includes any equity investment that would, but for division (A) (5)(a) of this section, be a qualified equity investment in the hands of the taxpayer if such investment was a qualified equity investment in the hands of a prior holder.

(B) There is hereby allowed a nonrefundable credit against the tax imposed by section 5725.18 of the Revised Code for an insurance company holding a qualified equity investment on the credit allowance date occurring in the calendar year for which the tax is due. The credit shall equal the applicable percentage of the adjusted purchase price, subject to divisions (B)(1) and (2) of this section:

(1) For the purpose of calculating the amount of qualified low-income community investments held by a qualified community development entity, an investment shall be considered held by a qualified community development entity even if the investment has been sold or repaid, provided that, at any time before the seventh anniversary of the issuance of the qualified equity investment, the qualified community development entity reinvests an amount equal to the capital returned to or received or recovered by the qualified community development entity from the original investment, exclusive of any profits realized and costs incurred in the sale or repayment, in another qualified low-income community investment in this state within twelve months of the receipt of such capital. If the qualified low-income community investment is sold or repaid after the sixth anniversary of the issuance of the qualified equity investment, the qualified low-income community investment shall be considered held by the qualified community development entity through the seventh anniversary of the qualified equity investment's issuance.

(2) The qualified low-income community investment made in this state shall equal the sum of



the qualified low-income community investments in each qualified active low-income community business in this state, not to exceed two million five hundred sixty-four thousand dollars, in which the qualified community development entity invests, including such investments in any such businesses in this state related to that qualified active low-income community business through majority ownership or control.

The credit shall be claimed in the order prescribed by section 5725.98 of the Revised Code. If the amount of the credit exceeds the amount of tax otherwise due after deducting all other credits in that order, the excess may be carried forward and applied to the tax due for not more than four ensuing years.

By claiming a tax credit under this section, an insurance company waives its rights under section 5725.222 of the Revised Code with respect to the time limitation for the assessment of taxes as it relates to credits claimed that later become subject to recapture under division (E) of this section.

(C) The aggregate amount of credit allocations made by the director of development services under this section and sections 5726.54, 5729.16, and 5733.58 of the Revised Code each fiscal year shall not exceed ten million dollars.

(D) If any amount of the federal tax credit allowed for a qualified equity investment for which a credit was received under this section is recaptured under section 45D of the Internal Revenue Code, or if the director of development services determines that an investment for which a tax credit is claimed under this section is not a qualified equity investment or that the proceeds of an investment for which a tax credit is claimed under this section are used to make qualified low-income community investments other than in a qualified active low-income community business in this state, all or a portion of the credit received on account of that investment shall be paid by the insurance company that received the credit to the superintendent of insurance. The amount to be recovered shall be determined by the director of development services pursuant to rules adopted under division (E) of this section. The director shall certify any amount due under this division to the superintendent of insurance, and the superintendent shall notify the treasurer of state of the amount due. Upon notification, the treasurer shall invoice the insurance company for the amount due. The amount due is payable not later than thirty days after the date the treasurer invoices the insurance company. The amount due shall be considered to be tax due under section 5725.18 of the Revised Code, and may be collected by assessment without regard to the time limitations imposed under section 5725.222 of the Revised Code for the assessment of taxes by the superintendent. All amounts collected under this division shall be credited as revenue from the tax levied under section 5725.18 of the Revised Code.

(E) The tax credits authorized under this section and sections 5726.54, 5729.16, and 5733.58 of the Revised Code shall be administered by the development services agency. The director of development services, in consultation with the tax commissioner and the superintendent of insurance, pursuant to Chapter 119. of the Revised Code, shall adopt rules for the administration of this section and sections 5726.54, 5729.16, and 5733.58 of the Revised Code. The rules shall provide for determining the recovery of credits under division (D) of this section and under sections 5726.54, 5729.16, and 5733.58 of the Revised Code, including prorating the amount of the credit to be recovered on any reasonable basis, the manner in which credits may be allocated among claimants, and the amount of any application or other fees to be charged in connection with a recovery.

(F) The director of development services is authorized to charge reasonable application and other fees in connection with the administration of tax credits authorized by this section and sections 5726.54, 5729.16, and 5733.58 of the Revised Code. Any such fees collected shall be credited to the tax incentives operating fund created in section 122.174 of the Revised Code.

(G) Tax credits earned or allocated to a pass-through entity, as that term is defined in section 5733.04 of the Revised Code, under section 5725.33, 5726.54, 5729.16, or 5733.58 of the Revised Code may be allocated to persons having a direct or indirect ownership interest in the pass-through entity for such persons' direct use in accordance with the provisions of any mutual agreement between such persons.

**Sec. 5725.98.** (A) To provide a uniform procedure for calculating the amount of tax imposed by section 5725.18 of the Revised Code that is due under this chapter, a taxpayer shall claim any credits and offsets against tax liability to which it is entitled in the following order:

(1) The credit for an insurance company or insurance company group under section 5729.031 of the Revised Code;

(2) The credit for eligible employee training costs under section 5725.31 of the Revised Code;

(3) The credit for purchasers of qualified low-income community investments under section 5725.33 of the Revised Code;

(4) The nonrefundable job retention credit under division (B) of section 122.171 of the Revised Code;

(5) The nonrefundable credit for investments in rural business growth funds under section 122.152 of the Revised Code;

(6) The offset of assessments by the Ohio life and health insurance guaranty association permitted by section 3956.20 of the Revised Code;

(7) The refundable credit for rehabilitating a historic building under section 5725.34 of the Revised Code;

(8) The refundable credit for Ohio job retention under former division (B)(2) or (3) of section 122.171 of the Revised Code as those divisions existed before September 29, 2015, the effective date of the amendment of this section by H.B. 64 of the 131st general assembly;

(9) The refundable credit for Ohio job creation under section 5725.32 of the Revised Code;

(10) The refundable credit under section 5725.19 of the Revised Code for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code.

(B) For any credit except the refundable credits enumerated in this section, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.

**Sec. 5726.01.** As used in this chapter:

(A) "Affiliated group" means a group of two or more persons with fifty per cent or greater of the value of each person's ownership interests owned or controlled directly, indirectly, or constructively through related interests by common owners during all or any portion of the taxable year, and the common owners. "Affiliated group" includes, but is not limited to, any person eligible

to be included in a consolidated elected taxpayer group under section 5751.011 of the Revised Code or a combined taxpayer group under section 5751.012 of the Revised Code.

(B) "Bank organization" means any of the following:

(1) A national bank organized and operating as a national bank association pursuant to the "National Bank Act," 13 Stat. 100 (1864), 12 U.S.C. 21, et seq.;

(2) A federal savings association or federal savings bank chartered under 12 U.S.C. 1464;

(3) A bank, banking association, trust company, savings and loan association, savings bank, or other banking institution that is organized or incorporated under the laws of the United States, any state, or a foreign country;

(4) Any corporation organized and operating pursuant to 12 U.S.C. 611, et seq.;

(5) Any agency or branch of a foreign bank, as those terms are defined in 12 U.S.C. 3101.

"Bank organization" does not include an institution organized under the "Federal Farm Loan Act," 39 Stat. 360 (1916), or a successor of such an institution, a company chartered under the "Farm Credit Act of 1933," 48 Stat. 257, or a successor of such a company, an association formed pursuant to 12 U.S.C. 2279c-1, an insurance company, or a credit union.

(C) "Call report" means the consolidated reports of condition and income prescribed by the federal financial institutions examination council that a person is required to file with a federal regulatory agency pursuant to 12 U.S.C. 161, 12 U.S.C. 324, or 12 U.S.C. 1817.

(D) "Captive finance company" means a person that derived at least seventy-five per cent of its gross income for the current taxable year and the two taxable years preceding the current taxable year from one or more of the following transactions:

(1) Financing transactions with members of its affiliated group;

(2) Financing transactions with or for customers of products manufactured or sold by a member of its affiliated group;

(3) Financing transactions with or for a distributor or franchisee that sells, leases, or services a product manufactured or sold by a member of the person's affiliated group;

(4) Financing transactions with or for a supplier to a member of the person's affiliated group in connection with the member's manufacturing business;

(5) Issuing bonds or other publicly traded debt instruments for the benefit of the affiliated group;

(6) Short-term or long-term investments whereby the person invests the cash reserves of the affiliated group and the affiliated group utilizes the proceeds from the investments.

For the purposes of division (D) of this section, "financing transaction" means making or selling loans, extending credit, leasing, earning or receiving subvention, including interest supplements and other support costs related thereto, or acquiring, selling, or servicing accounts receivable, notes, loans, leases, debt, or installment obligations that arise from the sale or lease of tangible personal property or the performance of services, and "gross income" has the same meaning as in section 61 of the Internal Revenue Code and includes income from transactions between the captive finance company and other members of its affiliated group.

A person that has not been in continuous existence for the two taxable years preceding the current taxable year qualifies as a "captive finance company" for purposes of division (D) of this section if the person derived at least seventy-five per cent of its gross income for the period of its

existence from one or more of the transactions described in divisions (D)(1) to (6) of this section.

"Captive finance company" does not include a small dollar lender.

(E) "Credit union" means a nonprofit cooperative financial institution organized or chartered under the laws of this state, any other state, or the United States.

(F) "Diversified savings and loan holding company" has the same meaning as in 12 U.S.C. 1467a, as that section existed on January 1, 2012.

(G) "Document of creation" means the articles of incorporation of a corporation, articles of organization of a limited liability company, registration of a foreign limited liability company, certificate of limited partnership, registration of a foreign limited partnership, registration of a domestic or foreign limited liability partnership, or registration of a trade name.

(H) "Financial institution" means a bank organization, a holding company of a bank organization, or a nonbank financial organization, except when one of the following applies:

(1) If two or more such entities are consolidated for the purposes of filing an FR Y-9, "financial institution" means a group consisting of all entities that are included in the FR Y-9.

(2) If two or more such entities are consolidated for the purposes of filing a call report, "financial institution" means a group consisting of all entities that are included in the call report and that are not included in a group described in division (H)(1) of this section.

(3) If a bank organization is owned directly by a grandfathered unitary savings and loan holding company or directly or indirectly by an entity that was a grandfathered unitary savings and loan holding company on January 1, 2012, "financial institution" means a group consisting only of that bank organization and the entities included in that bank organization's call report, notwithstanding division (H)(1) or (2) of this section.

"Financial institution" does not include a diversified savings and loan holding company, a grandfathered unitary savings and loan holding company, any entity that was a grandfathered unitary savings and loan holding company on January 1, 2012, or any entity that is not a bank organization or owned by a bank organization and that is owned directly or indirectly by an entity that was a grandfathered unitary savings and loan holding company on January 1, 2012.

(I) "FR Y-9" means the consolidated or parent-only financial statements that a holding company is required to file with the federal reserve board pursuant to 12 U.S.C. 1844. In the case of a holding company required to file both consolidated and parent-only financial statements, "FR Y-9" means the consolidated financial statements that the holding company is required to file.

(J) "Grandfathered unitary savings and loan holding company" means an entity described in 12 U.S.C. 1467a(c)(9)(C), as that section existed on December 31, 1999.

(K) "Gross receipts" means all items of income, without deduction for expenses. If the reporting person for a taxpayer is a holding company, "gross receipts" includes all items of income reported on the FR Y-9 filed by the holding company. If the reporting person for a taxpayer is a bank organization, "gross receipts" includes all items of income reported on the call report filed by the bank organization. If the reporting person for a taxpayer is a nonbank financial organization, "gross receipts" includes all items of income reported in accordance with generally accepted accounting principles.

(L) "Insurance company" means every corporation, association, and society engaged in the business of insurance of any character, or engaged in the business of entering into contracts

substantially amounting to insurance of any character, or of indemnifying or guaranteeing against loss or damage, or acting as surety on bonds or undertakings. "Insurance company" also includes any health insuring corporation as defined in section 1751.01 of the Revised Code.

(M)(1) "Nonbank financial organization" means every person that is not a bank organization or a holding company of a bank organization and that engages in business primarily as a small dollar lender. "Nonbank financial organization" does not include an institution organized under the "Federal Farm Loan Act," 39 Stat. 360 (1916), or a successor of such an institution, an insurance company, a captive finance company, a credit union, an institution organized and operated exclusively for charitable purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or a person that facilitates or services one or more securitizations for a bank organization, a holding company of a bank organization, a captive finance company, or any member of the person's affiliated group.

(2) A person is engaged in business primarily as a small dollar lender if the person has, for the taxable year, gross income from the activities described in division (O) of this section that exceeds the person's gross income from all other activities. As used in division (M) of this section, "gross income" has the same meaning as in section 61 of the Internal Revenue Code, and income from transactions between the person and the other members of the affiliated group shall be eliminated, and any sales, exchanges, and other dispositions of commercial paper to persons outside the affiliated group produces gross income only to the extent the proceeds from such transactions exceed the affiliated group's basis in such commercial paper.

(N) "Reporting person" means one of the following:

(1) In the case of a financial institution described in division (H)(1) of this section, the top-tier holding company required to file an FR Y-9.

(2) In the case of a financial institution described in division (H)(2) or (3) of this section, the bank organization required to file the call report.

(3) In the case of a bank organization or nonbank financial organization that is not included in a group described in division (H)(1) or (2) of this section, the bank organization or nonbank financial organization.

(O) "Small dollar lender" means any person engaged primarily in the business of loaning money to individuals, provided that the loan amounts do not exceed five thousand dollars and the duration of the loans do not exceed twelve months. A "small dollar lender" does not include a bank organization, credit union, or captive finance company.

(P) "Tax year" means the calendar year for which the tax levied under section 5726.02 of the Revised Code is required to be paid.

(Q) "Taxable year" means the calendar year preceding the year in which an annual report is required to be filed under section 5726.03 of the Revised Code.

(R) "Taxpayer" means a financial institution subject to the tax levied under section 5726.02 of the Revised Code.

(S) "Total equity capital" means the sum of the common stock at par value, perpetual preferred stock and related surplus, other surplus not related to perpetual preferred stock, retained earnings, accumulated other comprehensive income, treasury stock, unearned employee stock ownership plan shares, and other equity components of a financial institution. "Total equity capital"

shall not include any noncontrolling (minority) interests as reported on an FR Y-9 or call report, unless such interests are in a bank organization or a bank holding company.

(T) "Total Ohio equity capital" means the portion of the total equity capital of a financial institution apportioned to Ohio pursuant to section 5726.05 of the Revised Code.

(U) "Holding company" does not include a diversified savings and loan holding company, a grandfathered unitary savings and loan holding company, any entity that was a grandfathered unitary savings and loan holding company on January 1, 2012, or any entity that is not a bank organization or owned by a bank organization and that is owned directly or indirectly by an entity that was a grandfathered unitary savings and loan holding company on January 1, 2012.

(V) "Securitization" means transferring one or more assets to one or more persons and subsequently issuing securities backed by the right to receive payment from the asset or assets so transferred.

**Sec. 5726.50.** (A) A taxpayer may claim a refundable tax credit against the tax imposed under this chapter for each person included in the annual report of the taxpayer that is granted a credit by the tax credit authority under section 122.17 or former division (B)(2) or (3) of section 122.171 of the Revised Code as those divisions existed before September 29, 2015, the effective date of the amendment of this section by H.B. 64 of the 131st general assembly. Such a credit shall not be claimed for any tax year following the calendar year in which a relocation of employment positions occurs in violation of an agreement entered into under section 122.17 or 122.171 of the Revised Code. For the purpose of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid on the first day of the tax year.

(B) A taxpayer may claim a nonrefundable tax credit against the tax imposed under this chapter for each person included in the annual report of the taxpayer that is granted a nonrefundable credit by the tax credit authority under division (B) of section 122.171 of the Revised Code. A taxpayer may claim against the tax imposed by this chapter any unused portion of the credits authorized under division (B) of section 5733.0610 of the Revised Code.

(C) The credits authorized in divisions (A) and (B) of this section shall be claimed in the order required under section 5726.98 of the Revised Code. If the amount of a credit authorized in division (A) of this section exceeds the tax otherwise due under section 5726.02 of the Revised Code after deducting all other credits preceding the credit in the order prescribed in section 5726.98 of the Revised Code, the excess shall be refunded to the taxpayer.

**Sec. 5727.031.** (A) A person that is engaged in some other primary business to which the supplying of electricity to others is incidental shall file a report under section 5727.08 of the Revised Code as an electric company but shall only report therein as taxable property the amounts required in divisions (B) and (C) of this section. All time limits and other procedural requirements of this chapter for the reporting and assessment of property of electric companies apply to persons required to file a report under this section. For the purposes of this section, "the supplying of electricity to others" shall not include donating all of the electricity a person generates to a political subdivision of the state.

(B) A person subject to this section shall report the true value of the boilers, machinery, equipment, and any personal property used to supply electricity to others, which shall be the sum of the following:

(1) The true value of the property that is production equipment as it would be determined for

an electric company under section 5727.11 of the Revised Code multiplied by the per cent of the electricity generated in the preceding calendar year that was not used by the person who generated it; plus

(2) The true value of the property that is not production equipment as it would be determined for an electric company under section 5727.11 of the Revised Code multiplied by the per cent of the electricity generated in the preceding calendar year that was not used by the person who generated it.

(C) The property reported under division (B) of this section shall be listed and assessed at an amount equal to the sum of the products determined under divisions (C)(1) and (2) of this section.

(1) Multiply the portion of the true value determined under division (B)(1) of this section by the assessment rate in section 5727.111 of the Revised Code that is applicable to the production equipment of an electric company;

(2) Multiply the portion of the true value determined under division (B)(2) of this section by the assessment rate in section 5727.111 of the Revised Code that is applicable to the property of an electric company that is not production equipment.

**Sec. 5727.06.** (A) Except as otherwise provided by law, the following constitutes the taxable property of a public utility, interexchange telecommunications company, or public utility property lessor that shall be assessed by the tax commissioner:

(1) For tax years before tax year 2006:

(a) In the case of a railroad company, all real property and tangible personal property owned or operated by the railroad company in this state on the thirty-first day of December of the preceding year;

(b) In the case of a water transportation company, all tangible personal property, except watercraft, owned or operated by the water transportation company in this state on the thirty-first day of December of the preceding year and all watercraft owned or operated by the water transportation company in this state during the preceding calendar year;

(c) In the case of all other public utilities and interexchange telecommunications companies, all tangible personal property that on the thirty-first day of December of the preceding year was both located in this state and:

(i) Owned by the public utility or interexchange telecommunications company; or

(ii) Leased by the public utility or interexchange telecommunications company under a sale and leaseback transaction.

(2) For tax years 2006, 2007, and 2008:

(a) In the case of a railroad company, all real property used in railroad operations and tangible personal property owned or operated by the railroad company in this state on the thirty-first day of December of the preceding year;

(b) In the case of a water transportation company, all tangible personal property, except watercraft, owned or operated by the water transportation company in this state on the thirty-first day of December of the preceding year and all watercraft owned or operated by the water transportation company in this state during the preceding calendar year;

(c) In the case of all other public utilities except telephone and telegraph companies, all tangible personal property that on the thirty-first day of December of the preceding year was both located in this state and either owned by the public utility or leased by the public utility under a sale

and leaseback transaction.

(3) For tax year 2009 and each tax year thereafter:

(a) In the case of a railroad company, all real property used in railroad operations and tangible personal property owned or operated by the railroad company in this state on the thirty-first day of December of the preceding year;

(b) In the case of a water transportation company, all tangible personal property, except watercraft, owned or operated by the water transportation company in this state on the thirty-first day of December of the preceding year and all watercraft owned or operated by the water transportation company in this state during the preceding calendar year;

(c) In the case of all other public utilities except telephone and telegraph companies, all tangible personal property that on the thirty-first day of December of the preceding year was both located in this state and either owned by the public utility or leased by the public utility under a sale and leaseback transaction, and that is not exempted from taxation under section 5727.75 of the Revised Code;

(d) In the case of a public utility property lessor, all personal property that on the thirty-first day of December of the preceding year was both located in this state and leased, in other than a sale and leaseback transaction, to a public utility other than a railroad, telephone, telegraph, or water transportation company. The assessment rate used under section 5727.111 of the Revised Code shall be based on the assessment rate that would apply if the public utility owned the property, and that is not exempted from taxation under section 5727.75 of the Revised Code.

(4) For tax years 2005 and 2006, in the case of telephone, telegraph, or interexchange telecommunications companies, all tangible personal property that on the thirty-first day of December of the preceding year was both located in this state and either owned by the telephone, telegraph, or interexchange telecommunications company or leased by the telephone, telegraph, or interexchange telecommunications company under a sale and leaseback transaction.

(5)(a) For tax year 2007 and thereafter, in the case of telephone, telegraph, or interexchange telecommunications companies, all tangible personal property shall be listed and assessed for taxation under Chapter 5711. of the Revised Code, but the tangible personal property shall be valued in accordance with this chapter using the composite annual allowances and other valuation procedures prescribed under section 5727.11 of the Revised Code by the tax commissioner for such property for tax year 2006, notwithstanding any section of Chapter 5711. of the Revised Code to the contrary.

(b) A telephone, telegraph, or interexchange telecommunications company subject to division (A)(5)(a) of this section shall file a combined return with the tax commissioner in accordance with section 5711.13 of the Revised Code even if the company has tangible personal property in only one county. Such a company also is subject to the issuance of a preliminary assessment certificate by the tax commissioner under section 5711.25 of the Revised Code. Such a company is not required to file a county supplemental return under section 5711.131 of the Revised Code.

(6) In the case of an energy company, for tax year 2011 and each tax year thereafter, all tangible personal property that on the thirty-first day of December of the preceding year was both located in this state and either owned by the company or leased by the company under a sale and leaseback transaction, and that is not exempted from taxation under section 5727.75 of the Revised



Code.

(B) This division applies to tax years before tax year 2007.

In the case of an interexchange telecommunications company, all taxable property shall be subject to the provisions of this chapter and shall be valued by the commissioner in accordance with division (A) of section 5727.11 of the Revised Code. A person described by this division shall file the report required by section 5727.08 of the Revised Code. Persons described in this division shall not be considered taxpayers, as defined in division (B) of section 5711.01 of the Revised Code, and shall not be required to file a return and list their taxable property under any provision of Chapter 5711. of the Revised Code.

(C) The lien of the state for taxes levied each year on the real and personal property of public utilities and interexchange telecommunications companies and on the personal property of public utility property lessors shall attach thereto on the thirty-first day of December of the preceding year.

(D) Property that is required by division (A)(3)(b) of this section to be assessed by the tax commissioner under this chapter shall not be listed by the owner of the property under Chapter 5711. of the Revised Code.

(E) The ten-thousand-dollar exemption provided for in division (C)(3) of section 5709.01 of the Revised Code does not apply to any personal property that is valued under this chapter.

(F) The tax commissioner may adopt rules governing the listing of the taxable property of public utilities and interexchange telecommunications companies and the determination of true value.

**Sec. 5727.09.**

**Sec. 5727.11.** (A) Except as otherwise provided in this section, the true value of all taxable property, except property of a railroad company, required by section 5727.06 of the Revised Code to be assessed by the tax commissioner shall be determined by a method of valuation using cost as capitalized on the public utility's books and records less composite annual allowances as prescribed by the commissioner. If the commissioner finds that application of this method will not result in the determination of true value of the public utility's taxable property, the commissioner may use another method of valuation.

(B)(1) Except as provided in division (B)(2) of this section, the true value of current gas stored underground is the cost of that gas shown on the books and records of the public utility on the thirty-first day of December of the preceding year.

(2) For tax year 2001 and thereafter, the true value of current gas stored underground is the quotient obtained by dividing (a) the average value of the current gas stored underground, which shall be determined by adding the value of the gas on hand at the end of each calendar month in the calendar year preceding the tax year, or, if applicable, the last day of business of each month for a partial month, divided by (b) the total number of months the natural gas company was in business during the calendar year prior to the beginning of the tax year. ~~with~~ With the approval of the tax commissioner, a natural gas company may use a date other than the end of a calendar month to value its current gas stored underground.

(C) The true value of noncurrent gas stored underground is thirty-five per cent of the cost of that gas shown on the books and records of the public utility on the thirty-first day of December of the preceding year.

(D)(1) Except as provided in division (D)(2) of this section, the true value of the production

equipment of an electric company and the true value of all taxable property of a rural electric company is the equipment's or property's cost as capitalized on the company's books and records less fifty per cent of that cost as an allowance for depreciation and obsolescence.

(2) The true value of the production equipment or energy conversion equipment of an electric company, rural electric company, or energy company purchased, transferred, or placed into service after October 5, 1999, is the purchase price of the equipment as capitalized on the company's books and records less composite annual allowances as prescribed by the tax commissioner.

(E) The true value of taxable property, except property of a railroad company, required by section 5727.06 of the Revised Code to be assessed by the tax commissioner shall not include the allowance for funds used during construction or interest during construction that has been capitalized on the public utility's books and records as part of the total cost of the taxable property. This division shall not apply to the taxable property of an electric company or a rural electric company, excluding transmission and distribution property, first placed into service after December 31, 2000, or to the taxable property a person purchases, which includes transfers, if that property was used in business by the seller prior to the purchase.

(F) The true value of watercraft owned or operated by a water transportation company shall be determined by multiplying the true value of the watercraft as determined under division (A) of this section by a fraction, the numerator of which is the number of revenue-earning miles traveled by the watercraft in the waters of this state and the denominator of which is the number of revenue-earning miles traveled by the watercraft in all waters.

(G) The cost of property subject to a sale and leaseback transaction is the cost of the property as capitalized on the books and records of the public utility owning the property immediately prior to the sale and leaseback transaction.

(H) The cost as capitalized on the books and records of a public utility includes amounts capitalized that represent regulatory assets, if such amounts previously were included on the company's books and records as capitalized costs of taxable personal property.

(I) Any change in the composite annual allowances as prescribed by the commissioner on a prospective basis shall not be admissible in any judicial or administrative action or proceeding as evidence of value with regard to prior years' taxes. Information about the business, property, or transactions of any taxpayer obtained by the commissioner for the purpose of adopting or modifying the composite annual allowances shall not be subject to discovery or disclosure.

**Sec. 5727.111.** The taxable property of each public utility, except a railroad company, and of each interexchange telecommunications company shall be assessed at the following percentages of true value:

(A) In the case of a rural electric company, fifty per cent in the case of its taxable transmission and distribution property and its energy conversion equipment, and twenty-five per cent for all its other taxable property;

(B) In the case of a telephone or telegraph company, twenty-five per cent for taxable property first subject to taxation in this state for tax year 1995 or thereafter for tax years before tax year 2007, and pursuant to division (H) of section 5711.22 of the Revised Code for tax year 2007 and thereafter, and the following for all other taxable property:

(1) For tax years prior to 2005, eighty-eight per cent;

(2) For tax year 2005, sixty-seven per cent;

(3) For tax year 2006, forty-six per cent;

(4) For tax year 2007 and thereafter, pursuant to division (H) of section 5711.22 of the Revised Code.

(C) Twenty-five per cent in the case of (1) a natural gas company or (2) a water-works company for taxable property first subject to taxation in this state for tax year 2017 and thereafter;

(D) Eighty-eight per cent in the case of a pipe-line company, a water-works company for taxable property first subject to taxation in this state before tax year 2017, or a heating company;

(E)(1) For tax year 2005, eighty-eight per cent in the case of the taxable transmission and distribution property of an electric company, and twenty-five per cent for all its other taxable property;

(2) For tax year 2006 and each tax year thereafter, in the case of an electric company, eighty-five per cent in the case of its taxable transmission and distribution property and its energy conversion equipment, and twenty-four per cent for all its other taxable property.

(F)(1) Twenty-five per cent in the case of an interexchange telecommunications company for tax years before tax year 2007;

(2) Pursuant to division (H) of section 5711.22 of the Revised Code for tax year 2007 and thereafter.

(G) Twenty-five per cent in the case of a water transportation company;

(H) For tax year 2011 and each tax year thereafter in the case of an energy company, twenty-four per cent in the case of its taxable production equipment, and eighty-five per cent for all its other taxable property.

**Sec. 5727.15.** When all the taxable property of a public utility is located in one taxing district, the tax commissioner shall apportion the total taxable value thereof to that taxing district.

When taxable property of a public utility is located in more than one taxing district, the commissioner shall apportion the total taxable value thereof among the taxing districts as follows:

(A)(1) In the case of a telegraph, interexchange telecommunications, or telephone company that owns miles of wire in this state, the value apportioned to each taxing district shall be the same percentage of the total value apportioned to all taxing districts as the miles of wire owned by the company within the taxing district are to the total miles of wire owned by the company within this state;

(2) In the case of a telegraph, interexchange telecommunications, or telephone company that does not own miles of wire in this state, the value apportioned to each taxing district shall be the same percentage of the total value apportioned to all taxing districts as the cost of the taxable property physically located in the taxing district is of the total cost of all taxable property physically located in this state.

(B) In the case of a railroad company:

(1) The taxable value of real and personal property not used in railroad operations shall be apportioned according to its situs;

(2) The taxable value of personal property used in railroad operations shall be apportioned to each taxing district in proportion to the miles of track and trackage rights, weighted to reflect the relative use of such personal property in each taxing district;

(3) The taxable value of real property used in railroad operations shall be apportioned to each taxing district in proportion to its relative value in each taxing district.

(C)(1) Prior to tax year 2001, in the case of an electric company:

(a) Seventy per cent of the taxable value of all production equipment and of all station equipment that is not production equipment shall be apportioned to the taxing district in which such property is physically located; and

(b) The remaining value of such property, together with the value of all other taxable personal property, shall be apportioned to each taxing district in the per cent that the cost of all transmission and distribution property physically located in the taxing district is of the total cost of all transmission and distribution property physically located in this state.

(c) If an electric company's taxable value for the current year includes the value of any production equipment at a plant at which the initial cost of the plant's production equipment exceeded one billion dollars, then prior to making the apportionments required for that company by division (C)(1)(a) and (b) of this section, the tax commissioner shall do the following:

(i) Subtract four hundred twenty million dollars from the total taxable value of the production equipment at that plant for the current tax year.

(ii) Multiply the difference thus obtained by a fraction, the numerator of which is the portion of the taxable value of that plant's production equipment included in the company's total value for the current tax year, and the denominator of which is the total taxable value of such equipment included in the total taxable value of all electric companies for such year;

(iii) Apportion the product thus obtained to taxing districts in the manner prescribed in division (C)(1)(b) of this section.

(iv) Deduct the amounts so apportioned from the taxable value of the company's production equipment at the plant, prior to making the apportionments required by divisions (C)(1)(a) and (b) of this section.

For purposes of division (C)(1)(c) of this section, "initial cost" applies only to production equipment of plants placed in commercial operation on or after January 1, 1987, and means the cost of all production equipment at a plant for the first year the plant's equipment was subject to taxation.

(2) For tax year 2001 and thereafter, in the case of an electric company:

(a) The taxable value of all production equipment shall be apportioned to the taxing district in which such property is physically located; and

(b) The value of taxable personal property, including energy conversion equipment but excluding production equipment, shall be apportioned to each taxing district in the proportion that the cost of such other taxable personal property physically located in each taxing district is of the total cost of such other taxable personal property physically located in this state.

(D) For tax year 2011 and thereafter, in the case of the taxable property of an energy company:

(1) The taxable value of all production equipment shall be apportioned to the taxing district in which such property is physically located.

(2) The taxable value of all other taxable property, including energy conversion equipment, shall be apportioned to each taxing district in the proportion that the cost of such other taxable property physically located in each taxing district is of the total cost of such other taxable property

physically located in this state.

(E) In the case of all other public utilities, the taxable value of the property to be apportioned shall be apportioned to each taxing district in proportion to the entire cost of such property within this state.

**Sec. 5727.75.** (A) For purposes of this section:

(1) "Qualified energy project" means an energy project certified by the director of development services pursuant to this section.

(2) "Energy project" means a project to provide electric power through the construction, installation, and use of an energy facility.

(3) "Alternative energy zone" means a county declared as such by the board of county commissioners under division (E)(1)(b) or (c) of this section.

(4) "Full-time equivalent employee" means the total number of employee-hours for which compensation was paid to individuals employed at a qualified energy project for services performed at the project during the calendar year divided by two thousand eighty hours.

(5) "Solar energy project" means an energy project composed of an energy facility using solar panels to generate electricity.

(B)(1) Tangible personal property of a qualified energy project using renewable energy resources is exempt from taxation for tax years 2011 through 2021 if all of the following conditions are satisfied:

(a) On or before December 31, 2020, the owner or a lessee pursuant to a sale and leaseback transaction of the project submits an application to the power siting board for a certificate under section 4906.20 of the Revised Code, or if that section does not apply, submits an application for any approval, consent, permit, or certificate or satisfies any condition required by a public agency or political subdivision of this state for the construction or initial operation of an energy project.

(b) Construction or installation of the energy facility begins on or after January 1, 2009, and before January 1, 2021. For the purposes of this division, construction begins on the earlier of the date of application for a certificate or other approval or permit described in division (B)(1)(a) of this section, or the date the contract for the construction or installation of the energy facility is entered into.

(c) For a qualified energy project with a nameplate capacity of five megawatts or greater, a board of county commissioners of a county in which property of the project is located has adopted a resolution under division (E)(1)(b) or (c) of this section to approve the application submitted under division (E) of this section to exempt the property located in that county from taxation. A board's adoption of a resolution rejecting an application or its failure to adopt a resolution approving the application does not affect the tax-exempt status of the qualified energy project's property that is located in another county.

(2) If tangible personal property of a qualified energy project using renewable energy resources was exempt from taxation under this section beginning in any of tax years 2011 through 2021, and the certification under division (E)(2) of this section has not been revoked, the tangible personal property of the qualified energy project is exempt from taxation for tax year 2022 and all ensuing tax years if the property was placed into service before January 1, 2022, as certified in the construction progress report required under division (F)(2) of this section. Tangible personal property

that has not been placed into service before that date is taxable property subject to taxation. An energy project for which certification has been revoked is ineligible for further exemption under this section. Revocation does not affect the tax-exempt status of the project's tangible personal property for the tax year in which revocation occurs or any prior tax year.

(C) Tangible personal property of a qualified energy project using clean coal technology, advanced nuclear technology, or cogeneration technology is exempt from taxation for the first tax year that the property would be listed for taxation and all subsequent years if all of the following circumstances are met:

(1) The property was placed into service before January 1, 2021. Tangible personal property that has not been placed into service before that date is taxable property subject to taxation.

(2) For such a qualified energy project with a nameplate capacity of five megawatts or greater, a board of county commissioners of a county in which property of the qualified energy project is located has adopted a resolution under division (E)(1)(b) or (c) of this section to approve the application submitted under division (E) of this section to exempt the property located in that county from taxation. A board's adoption of a resolution rejecting the application or its failure to adopt a resolution approving the application does not affect the tax-exempt status of the qualified energy project's property that is located in another county.

(3) The certification for the qualified energy project issued under division (E)(2) of this section has not been revoked. An energy project for which certification has been revoked is ineligible for exemption under this section. Revocation does not affect the tax-exempt status of the project's tangible personal property for the tax year in which revocation occurs or any prior tax year.

(D) Except as otherwise provided in this section, real property of a qualified energy project is exempt from taxation for any tax year for which the tangible personal property of the qualified energy project is exempted under this section.

(E)(1)(a) A person may apply to the director of development services for certification of an energy project as a qualified energy project on or before the following dates:

(i) December 31, 2020, for an energy project using renewable energy resources;

(ii) December 31, 2017, for an energy project using clean coal technology, advanced nuclear technology, or cogeneration technology.

(b) The director shall forward a copy of each application for certification of an energy project with a nameplate capacity of five megawatts or greater to the board of county commissioners of each county in which the project is located and to each taxing unit with territory located in each of the affected counties. Any board that receives from the director a copy of an application submitted under this division shall adopt a resolution approving or rejecting the application unless it has adopted a resolution under division (E)(1)(c) of this section. A resolution adopted under division (E)(1)(b) or (c) of this section may require an annual service payment to be made in addition to the service payment required under division (G) of this section. The sum of the service payment required in the resolution and the service payment required under division (G) of this section shall not exceed nine thousand dollars per megawatt of nameplate capacity located in the county. The resolution shall specify the time and manner in which the payments required by the resolution shall be paid to the county treasurer. The county treasurer shall deposit the payment to the credit of the county's general fund to be used for any purpose for which money credited to that fund may be used.

The board shall send copies of the resolution by certified mail to the owner of the facility and the director within thirty days after receipt of the application, or a longer period of time if authorized by the director.

(c) A board of county commissioners may adopt a resolution declaring the county to be an alternative energy zone and declaring all applications submitted to the director of development services under this division after the adoption of the resolution, and prior to its repeal, to be approved by the board.

All tangible personal property and real property of an energy project with a nameplate capacity of five megawatts or greater is taxable if it is located in a county in which the board of county commissioners adopted a resolution rejecting the application submitted under this division or failed to adopt a resolution approving the application under division (E)(1)(b) or (c) of this section.

(2) The director shall certify an energy project if all of the following circumstances exist:

(a) The application was timely submitted.

(b) For an energy project with a nameplate capacity of five megawatts or greater, a board of county commissioners of at least one county in which the project is located has adopted a resolution approving the application under division (E)(1)(b) or (c) of this section.

(c) No portion of the project's facility was used to supply electricity before December 31, 2009.

(3) The director shall deny a certification application if the director determines the person has failed to comply with any requirement under this section. The director may revoke a certification if the director determines the person, or subsequent owner or lessee pursuant to a sale and leaseback transaction of the qualified energy project, has failed to comply with any requirement under this section. Upon certification or revocation, the director shall notify the person, owner, or lessee, the tax commissioner, and the county auditor of a county in which the project is located of the certification or revocation. Notice shall be provided in a manner convenient to the director.

(F) The owner or a lessee pursuant to a sale and leaseback transaction of a qualified energy project shall do each of the following:

(1) Comply with all applicable regulations;

(2) File with the director of development services a certified construction progress report before the first day of March of each year during the energy facility's construction or installation indicating the percentage of the project completed, and the project's nameplate capacity, as of the preceding thirty-first day of December. Unless otherwise instructed by the director of development services, the owner or lessee of an energy project shall file a report with the director on or before the first day of March each year after completion of the energy facility's construction or installation indicating the project's nameplate capacity as of the preceding thirty-first day of December. Not later than sixty days after June 17, 2010, the owner or lessee of an energy project, the construction of which was completed before June 17, 2010, shall file a certificate indicating the project's nameplate capacity.

(3) File with the director of development services, in a manner prescribed by the director, a report of the total number of full-time equivalent employees, and the total number of full-time equivalent employees domiciled in Ohio, who are employed in the construction or installation of the energy facility;

(4) For energy projects with a nameplate capacity of five megawatts or greater, repair all roads, bridges, and culverts affected by construction as reasonably required to restore them to their preconstruction condition, as determined by the county engineer in consultation with the local jurisdiction responsible for the roads, bridges, and culverts. In the event that the county engineer deems any road, bridge, or culvert to be inadequate to support the construction or decommissioning of the energy facility, the road, bridge, or culvert shall be rebuilt or reinforced to the specifications established by the county engineer prior to the construction or decommissioning of the facility. The owner or lessee of the facility shall post a bond in an amount established by the county engineer and to be held by the board of county commissioners to ensure funding for repairs of roads, bridges, and culverts affected during the construction. The bond shall be released by the board not later than one year after the date the repairs are completed. The energy facility owner or lessee pursuant to a sale and leaseback transaction shall post a bond, as may be required by the Ohio power siting board in the certificate authorizing commencement of construction issued pursuant to section 4906.10 of the Revised Code, to ensure funding for repairs to roads, bridges, and culverts resulting from decommissioning of the facility. The energy facility owner or lessee and the county engineer may enter into an agreement regarding specific transportation plans, reinforcements, modifications, use and repair of roads, financial security to be provided, and any other relevant issue.

(5) Provide or facilitate training for fire and emergency responders for response to emergency situations related to the energy project and, for energy projects with a nameplate capacity of five megawatts or greater, at the person's expense, equip the fire and emergency responders with proper equipment as reasonably required to enable them to respond to such emergency situations;

(6) Maintain a ratio of Ohio-domiciled full-time equivalent employees employed in the construction or installation of the energy project to total full-time equivalent employees employed in the construction or installation of the energy project of not less than eighty per cent in the case of a solar energy project, and not less than fifty per cent in the case of any other energy project. In the case of an energy project for which certification from the power siting board is required under section 4906.20 of the Revised Code, the number of full-time equivalent employees employed in the construction or installation of the energy project equals the number actually employed or the number projected to be employed in the certificate application, if such projection is required under regulations adopted pursuant to section 4906.03 of the Revised Code, whichever is greater. For all other energy projects, the number of full-time equivalent employees employed in the construction or installation of the energy project equals the number actually employed or the number projected to be employed by the director of development services, whichever is greater. To estimate the number of employees to be employed in the construction or installation of an energy project, the director shall use a generally accepted job-estimating model in use for renewable energy projects, including but not limited to the job and economic development impact model. The director may adjust an estimate produced by a model to account for variables not accounted for by the model.

(7) For energy projects with a nameplate capacity in excess of two megawatts, establish a relationship with a member of the university system of Ohio as defined in section 3345.011 of the Revised Code or with a person offering an apprenticeship program registered with the employment and training administration within the United States department of labor or with the apprenticeship council created by section 4139.02 of the Revised Code, to educate and train individuals for careers



in the wind or solar energy industry. The relationship may include endowments, cooperative programs, internships, apprenticeships, research and development projects, and curriculum development.

(8) Offer to sell power or renewable energy credits from the energy project to electric distribution utilities or electric service companies subject to renewable energy resource requirements under section 4928.64 of the Revised Code that have issued requests for proposal for such power or renewable energy credits. If no electric distribution utility or electric service company issues a request for proposal on or before December 31, 2010, or accepts an offer for power or renewable energy credits within forty-five days after the offer is submitted, power or renewable energy credits from the energy project may be sold to other persons. Division (F)(8) of this section does not apply if:

(a) The owner or lessee is a rural electric company or a municipal power agency as defined in section 3734.058 of the Revised Code.

(b) The owner or lessee is a person that, before completion of the energy project, contracted for the sale of power or renewable energy credits with a rural electric company or a municipal power agency.

(c) The owner or lessee contracts for the sale of power or renewable energy credits from the energy project before June 17, 2010.

(9) Make annual service payments as required by division (G) of this section and as may be required in a resolution adopted by a board of county commissioners under division (E) of this section.

(G) The owner or a lessee pursuant to a sale and leaseback transaction of a qualified energy project shall make annual service payments in lieu of taxes to the county treasurer on or before the final dates for payments of taxes on public utility personal property on the real and public utility personal property tax list for each tax year for which property of the energy project is exempt from taxation under this section. The county treasurer shall allocate the payment on the basis of the project's physical location. Upon receipt of a payment, or if timely payment has not been received, the county treasurer shall certify such receipt or non-receipt to the director of development services and tax commissioner in a form determined by the director and commissioner, respectively. Each payment shall be in the following amount:

(1) In the case of a solar energy project, seven thousand dollars per megawatt of nameplate capacity located in the county as of December 31, 2010, for tax year 2011, as of December 31, 2011, for tax year 2012, as of December 31, 2012, for tax year 2013, as of December 31, 2013, for tax year 2014, as of December 31, 2014, for tax year 2015, as of December 31, 2015, for tax year 2016, and as of December 31, 2016, for tax year 2017 and each tax year thereafter;

(2) In the case of any other energy project using renewable energy resources, the following:

(a) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of not less than seventy-five per cent, six thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(b) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than

seventy-five per cent but not less than sixty per cent, seven thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(c) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than sixty per cent but not less than fifty per cent, eight thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year.

(3) In the case of an energy project using clean coal technology, advanced nuclear technology, or cogeneration technology, the following:

(a) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of not less than seventy-five per cent, six thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(b) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than seventy-five per cent but not less than sixty per cent, seven thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(c) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than sixty per cent but not less than fifty per cent, eight thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year.

(H) The director of development services in consultation with the tax commissioner shall adopt rules pursuant to Chapter 119. of the Revised Code to implement and enforce this section.

**Sec. 5727.80.** As used in sections 5727.80 to 5727.95 of the Revised Code:

(A) "Electric distribution company" means either of the following:

(1) A person who distributes electricity through a meter of an end user in this state or to an unmetered location in this state;

(2) The end user of electricity in this state, if the end user obtains electricity that is not distributed or transmitted to the end user by an electric distribution company that is required to remit the tax imposed by section 5727.81 of the Revised Code.

"Electric distribution company" does not include an end user of electricity in this state who self-generates electricity that is used directly by that end user on the same site that the electricity is generated or a person that donates all of the electricity the person generates to a political subdivision of the state. Division (A)(2) of this section shall not apply to a political subdivision in this state that is the end user of electricity that is donated to the political subdivision.

(B) "Kilowatt hour" means one thousand watt hours of electricity.

(C) For an electric distribution company, "meter of an end user in this state" means the last meter used to measure the kilowatt hours distributed by an electric distribution company to a location in this state, or the last meter located outside of this state that is used to measure the kilowatt hours consumed at a location in this state.

(D) "Person" has the same meaning as in section 5701.01 of the Revised Code, but also

includes a political subdivision of the state.

(E) "Municipal electric utility" means a municipal corporation that owns or operates a system for the distribution of electricity.

(F) "Qualified end user" means an end user of electricity that satisfies either of the following criteria:

(1) The end user uses more than three million kilowatt hours of electricity at one manufacturing location in this state for a calendar day for use in a qualifying manufacturing process.

(2) The end user uses electricity at a manufacturing location in this state for use in a chlor-alkali manufacturing process but, if the end user uses electricity distributed by a municipal electric utility, the end user can only be a "qualified end user" upon obtaining the consent of the legislative authority of the municipal corporation that owns or operates the utility.

(G) "Qualified regeneration" means a process to convert electricity to a form of stored energy by means such as using electricity to compress air for storage or to pump water to an elevated storage reservoir, if such stored energy is subsequently used to generate electricity for sale to others primarily during periods when there is peak demand for electricity.

(H) "Qualified regeneration meter" means the last meter used to measure electricity used in a qualified regeneration process.

(I) "Qualifying manufacturing process" means an electrochemical manufacturing process or a chlor-alkali manufacturing process.

(J) "Self-assessing purchaser" means a purchaser that meets all the requirements of, and pays the excise tax in accordance with, division (C) of section 5727.81 of the Revised Code.

(K) "Natural gas distribution company" means a natural gas company or a combined company, as defined in section 5727.01 of the Revised Code, that is subject to the excise tax imposed by section 5727.24 of the Revised Code and that distributes natural gas through a meter of an end user in this state or to an unmetered location in this state.

(L) "MCF" means one thousand cubic feet.

(M) For a natural gas distribution company, "meter of an end user in this state" means the last meter used to measure the MCF of natural gas distributed by a natural gas distribution company to a location in this state, or the last meter located outside of this state that is used to measure the natural gas consumed at a location in this state.

(N) "Flex customer" means an industrial or a commercial facility that has consumed more than one billion cubic feet of natural gas a year at a single location during any of the previous five years, or an industrial or a commercial end user of natural gas that purchases natural gas distribution services from a natural gas distribution company at discounted rates or charges established in any of the following:

(1) A special arrangement subject to review and regulation by the public utilities commission under section 4905.31 of the Revised Code;

(2) A special arrangement with a natural gas distribution company pursuant to a municipal ordinance;

(3) A variable rate schedule that permits rates to vary between defined amounts, provided that the schedule is on file with the public utilities commission.

An end user that meets this definition on January 1, 2000, or thereafter is a "flex customer"

for purposes of determining the rate of taxation under division (D) of section 5727.811 of the Revised Code.

(O) "Electrochemical manufacturing process" means the performance of an electrochemical reaction in which electrons from direct current electricity remain a part of the product being manufactured. "Electrochemical manufacturing process" does not include a chlor-alkali manufacturing process.

(P) "Chlor-alkali manufacturing process" means a process that uses electricity to produce chlorine and other chemicals through the electrolysis of a salt solution.

**Sec. 5727.81.** (A) For the purpose of raising revenue to fund the needs of this state and its local governments, an excise tax is hereby levied and imposed on an electric distribution company for all electricity distributed by such company at the following rates per kilowatt hour of electricity distributed in a thirty-day period by the company through a meter of an end user in this state:

KILOWATT HOURS DISTRIBUTED TO AN END USER	RATE PER KILOWATT HOUR
For the first 2,000	\$.00465
For the next 2,001 to 15,000	\$.00419
For 15,001 and above	\$.00363

If no meter is used to measure the kilowatt hours of electricity distributed by the company, the rates shall apply to the estimated kilowatt hours of electricity distributed to an unmetered location in this state.

The electric distribution company shall base the monthly tax on the kilowatt hours of electricity distributed to an end user through the meter of the end user that is not measured for a thirty-day period by dividing the days in the measurement period into the total kilowatt hours measured during the measurement period to obtain a daily average usage. The tax shall be determined by obtaining the sum of divisions (A)(1), (2), and (3) of this section and multiplying that amount by the number of days in the measurement period:

(1) Multiplying \$0.00465 per kilowatt hour for the first sixty-seven kilowatt hours distributed using a daily average;

(2) Multiplying \$0.00419 for the next sixty-eight to five hundred kilowatt hours distributed using a daily average;

(3) Multiplying \$0.00363 for the remaining kilowatt hours distributed using a daily average.

Except as provided in division (C) of this section, the electric distribution company shall pay the tax to the tax commissioner in accordance with section 5727.82 of the Revised Code, unless required to remit each tax payment by electronic funds transfer to the treasurer of state in accordance with section 5727.83 of the Revised Code.

Only the distribution of electricity through a meter of an end user in this state shall be used by the electric distribution company to compute the amount or estimated amount of tax due. In the event a meter is not actually read for a measurement period, the estimated kilowatt hours distributed by an electric distribution company to bill for its distribution charges shall be used.

(B) Except as provided in division (C) of this section, each electric distribution company shall pay the tax imposed by this section in all of the following circumstances:

(1) The electricity is distributed by the company through a meter of an end user in this state;

(2) The company is distributing electricity through a meter located in another state, but the electricity is consumed in this state in the manner prescribed by the tax commissioner;

(3) The company is distributing electricity in this state without the use of a meter, but the electricity is consumed in this state as estimated and in the manner prescribed by the tax commissioner.

(C)(1) As used in division (C) of this section:

(a) "Total price of electricity" means the aggregate value in money of anything paid or transferred, or promised to be paid or transferred, to obtain electricity or electric service, including but not limited to the value paid or promised to be paid for the transmission or distribution of electricity and for transition costs as described in Chapter 4928. of the Revised Code.

(b) "Package" means the provision or the acquisition, at a combined price, of electricity with other services or products, or any combination thereof, such as natural gas or other fuels; energy management products, software, and services; machinery and equipment acquisition; and financing agreements.

(c) "Single location" means a facility located on contiguous property separated only by a roadway, railway, or waterway.

(2) Division (C) of this section applies to any commercial or industrial purchaser's receipt of electricity through a meter of an end user in this state or through more than one meter at a single location in this state in a quantity that exceeds forty-five million kilowatt hours of electricity over the course of the preceding calendar year, or any commercial or industrial purchaser that will consume more than forty-five million kilowatt hours of electricity over the course of the succeeding twelve months as estimated by the tax commissioner. The tax commissioner shall make such an estimate upon the written request by an applicant for registration as a self-assessing purchaser under this division. For the meter reading period including July 1, 2008, through the meter reading period including December 31, 2010, such a purchaser may elect to self-assess the excise tax imposed by this section at the rate of \$.00075 per kilowatt hour on the first five hundred four million kilowatt hours distributed to that meter or location during the registration year, and a percentage of the total price of all electricity distributed to that meter or location equal to three and one-half per cent. For the meter reading period including January 1, 2011, and thereafter, such a purchaser may elect to self-assess the excise tax imposed by this section at the rate of \$.00257 per kilowatt hour for the first five hundred million kilowatt hours, and \$.001832 per kilowatt hour for each kilowatt hour in excess of five hundred million kilowatt hours, distributed to that meter or location during the registration year.

A qualified end user that receives electricity through a meter of an end user in this state or through more than one meter at a single location in this state and that consumes, over the course of the previous calendar year, more than forty-five million kilowatt hours in other than its qualifying manufacturing process, may elect to self-assess the tax as allowed by this division with respect to the electricity used in other than its qualifying manufacturing process.

Payment of the tax shall be made directly to the tax commissioner in accordance with divisions (A)(4) and (5) of section 5727.82 of the Revised Code, or the treasurer of state in accordance with section 5727.83 of the Revised Code. If the electric distribution company serving the self-assessing purchaser is a municipal electric utility and the purchaser is within the municipal

corporation's corporate limits, payment shall be made to such municipal corporation's general fund and reports shall be filed in accordance with divisions (A)(4) and (5) of section 5727.82 of the Revised Code, except that "municipal corporation" shall be substituted for "treasurer of state" and "tax commissioner." A self-assessing purchaser that pays the excise tax as provided in this division shall not be required to pay the tax to the electric distribution company from which its electricity is distributed. If a self-assessing purchaser's receipt of electricity is not subject to the tax as measured under this division, the tax on the receipt of such electricity shall be measured and paid as provided in division (A) of this section.

(3) In the case of the acquisition of a package, unless the elements of the package are separately stated isolating the total price of electricity from the price of the remaining elements of the package, the tax imposed under this section applies to the entire price of the package. If the elements of the package are separately stated, the tax imposed under this section applies to the total price of the electricity.

(4) Any electric supplier that sells electricity as part of a package shall separately state to the purchaser the total price of the electricity and, upon request by the tax commissioner, the total price of each of the other elements of the package.

(5) The tax commissioner may adopt rules relating to the computation of the total price of electricity with respect to self-assessing purchasers, which may include rules to establish the total price of electricity purchased as part of a package.

(6) An annual application for registration as a self-assessing purchaser shall be made for each qualifying meter or location on a form prescribed by the tax commissioner. The registration year begins on the first day of May and ends on the following thirtieth day of April. Persons may apply after the first day of May for the remainder of the registration year. In the case of an applicant applying on the basis of an estimated consumption of forty-five million kilowatt hours over the course of the succeeding twelve months, the applicant shall provide such information as the tax commissioner considers to be necessary to estimate such consumption. At the time of making the application and by the first day of May of each year, a self-assessing purchaser shall pay a fee of five hundred dollars to the tax commissioner, or to the treasurer of state as provided in section 5727.83 of the Revised Code, for each qualifying meter or location. The tax commissioner shall immediately pay to the treasurer of state all amounts that the tax commissioner receives under this section. The treasurer of state shall deposit such amounts into the kilowatt hour excise tax administration fund, which is hereby created in the state treasury. Money in the fund shall be used to defray the tax commissioner's cost in administering the tax owed under section 5727.81 of the Revised Code by self-assessing purchasers. After the application is approved by the tax commissioner, the registration shall remain in effect for the current registration year, or until canceled by the registrant upon written notification to the commissioner of the election to pay the tax in accordance with division (A) of this section, or until canceled by the tax commissioner for not paying the tax or fee under division (C) of this section or for not meeting the qualifications in division (C)(2) of this section. The tax commissioner shall give written notice to the electric distribution company from which electricity is delivered to a self-assessing purchaser of the purchaser's self-assessing status, and the electric distribution company is relieved of the obligation to pay the tax imposed by division (A) of this section for electricity distributed to that self-assessing purchaser until it is notified by the tax

commissioner that the self-assessing purchaser's registration is canceled. Within fifteen days of notification of the canceled registration, the electric distribution company shall be responsible for payment of the tax imposed by division (A) of this section on electricity distributed to a purchaser that is no longer registered as a self-assessing purchaser. A self-assessing purchaser with a canceled registration must file a report and remit the tax imposed by division (A) of this section on all electricity it receives for any measurement period prior to the tax being reported and paid by the electric distribution company. A self-assessing purchaser whose registration is canceled by the tax commissioner is not eligible to register as a self-assessing purchaser for two years after the registration is canceled.

(7) If the tax commissioner cancels the self-assessing registration of a purchaser registered on the basis of its estimated consumption because the purchaser does not consume at least forty-five million kilowatt hours of electricity over the course of the twelve-month period for which the estimate was made, the tax commissioner shall assess and collect from the purchaser the difference between (a) the amount of tax that would have been payable under division (A) of this section on the electricity distributed to the purchaser during that period and (b) the amount of tax paid by the purchaser on such electricity pursuant to division (C)(2) of this section. The assessment shall be paid within sixty days after the tax commissioner issues it, regardless of whether the purchaser files a petition for reassessment under section 5727.89 of the Revised Code covering that period. If the purchaser does not pay the assessment within the time prescribed, the amount assessed is subject to the additional charge and the interest prescribed by divisions (B) and (C) of section 5727.82 of the Revised Code, and is subject to assessment under section 5727.89 of the Revised Code. If the purchaser is a qualified end user, division (C)(7) of this section applies only to electricity it consumes in other than its qualifying manufacturing process.

(D) The tax imposed by this section does not apply to the distribution of any kilowatt hours of electricity to the federal government, to an end user located at a federal facility that uses electricity for the enrichment of uranium, to a qualified regeneration meter, or to an end user for any day the end user is a qualified end user. The exemption under this division for a qualified end user only applies to the manufacturing location where the qualified end user uses electricity in a chlor-alkali manufacturing process or where the qualified end user uses more than three million kilowatt hours per day in an electrochemical manufacturing process.

(E) All revenue arising from the tax imposed by this section shall be credited to the general revenue fund except as provided by division (C) of this section and section 5727.82 of the Revised Code.

**Sec. 5727.811.** (A) For the purpose of raising revenue to fund the needs of this state and its local governments, an excise tax is hereby levied on every natural gas distribution company for all natural gas volumes billed by, or on behalf of, the company beginning with the measurement period that includes July 1, 2001. Except as provided in divisions (C) or (D) of this section, the tax shall be levied at the following rates per MCF of natural gas distributed by the company through a meter of an end user in this state:

MCF DISTRIBUTED TO AN END USER    RATE PER MCF

1480

For the first 100 MCF per month     \$.1593

For the next 101 to 2000 MCF per month     \$.0877

For 2001 and above MCF per month     \$.0411

If no meter is used to measure the MCF of natural gas distributed by the company, the rates shall apply to the estimated MCF of natural gas distributed to an unmetered location in this state.

(B) A natural gas distribution company shall base the tax on the MCF of natural gas distributed to an end user through the meter of the end user in this state that is estimated to be consumed by the end user as reflected on the end user's customer statement from the natural gas distribution company. Until January 1, 2003, the natural gas distribution company shall pay the tax levied by this section to the treasurer of state in accordance with section 5727.82 of the Revised Code. Beginning January 1, 2003, the natural gas distribution company shall pay the tax levied by this section to the tax commissioner in accordance with section 5727.82 of the Revised Code unless required to remit payment to the treasurer of state in accordance with section 5727.83 of the Revised Code.

(C) A natural gas distribution company with seventy thousand customers or less may elect to apply the rates specified in division (A) of this section to the aggregate of the natural gas distributed by the company through the meter of all its customers in this state, and upon such election, this method shall be used to determine the amount of tax to be paid by such company.

(D) A natural gas distribution company shall pay the tax imposed by this section at the rate of \$.02 per MCF of natural gas distributed by the company through the meter of a flex customer. The natural gas distribution company correspondingly shall reduce the per MCF rate that it charges the flex customer for natural gas distribution services by \$.02 per MCF of natural gas distributed to the flex customer.

(E) Except as provided in division (F) of this section, each natural gas distribution company shall pay the tax imposed by this section in all of the following circumstances:

- (1) The natural gas is distributed by the company through a meter of an end user in this state;
- (2) The natural gas distribution company is distributing natural gas through a meter located in another state, but the natural gas is consumed in this state in the manner prescribed by the tax commissioner;
- (3) The natural gas distribution company is distributing natural gas in this state without the use of a meter, but the natural gas is consumed in this state as estimated and in the manner prescribed by the tax commissioner.

(F) The tax levied by this section does not apply to the distribution of natural gas to the federal government, or natural gas produced by an end user in this state that is consumed by that end user or its affiliates and is not distributed through the facilities of a natural gas company.

(G) All revenue arising from the tax imposed by this section shall be credited to the general revenue fund.

**Sec. 5727.84.** No determinations, computations, certifications, or payments shall be made under this section after June 30, 2015.

(A) As used in this section and sections 5727.85, 5727.86, and 5727.87 of the Revised Code:



(1) "School district" means a city, local, or exempted village school district.

(2) "Joint vocational school district" means a joint vocational school district created under section 3311.16 of the Revised Code, and includes a cooperative education school district created under section 3311.52 or 3311.521 of the Revised Code and a county school financing district created under section 3311.50 of the Revised Code.

(3) "Local taxing unit" means a subdivision or taxing unit, as defined in section 5705.01 of the Revised Code, a park district created under Chapter 1545. of the Revised Code, or a township park district established under section 511.23 of the Revised Code, but excludes school districts and joint vocational school districts.

(4) "State education aid," for a school district, means the following:

(a) For fiscal years prior to fiscal year 2010, the sum of state aid amounts computed for the district under former sections 3317.029, 3317.052, and 3317.053 of the Revised Code and the following provisions, as they existed for the applicable fiscal year: divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 3317.022; divisions (B), (C), and (D) of section 3317.023; divisions (G), (L), and (N) of section 3317.024; and sections 3317.0216, 3317.0217, 3317.04, and 3317.05 of the Revised Code; and the adjustments required by: division (C) of section 3310.08; division (C)(2) of section 3310.41; division (C) of section 3314.08; division (D)(2) of section 3314.091; division (D) of former section 3314.13; divisions (E), (K), (L), (M), and (N) of section 3317.023; division (C) of section 3317.20; and sections 3313.979 and 3313.981 of the Revised Code. However, when calculating state education aid for a school district for fiscal years 2008 and 2009, include the amount computed for the district under Section 269.20.80 of H.B. 119 of the 127th general assembly, as subsequently amended, instead of division (D) of section 3317.022 of the Revised Code; and include amounts calculated under Section 269.30.80 of H.B. 119 of the 127th general assembly, as subsequently amended.

(b) For fiscal years 2010 and 2011, the sum of the amounts computed for the district under former sections 3306.052, 3306.12, 3306.13, 3306.19, 3306.191, 3306.192, 3317.052, and 3317.053 of the Revised Code and the following provisions, as they existed for the applicable fiscal year: division (G) of section 3317.024; section 3317.05 of the Revised Code; and the adjustments required by division (C) of section 3310.08; division (C)(2) of section 3310.41; division (C) of section 3314.08; division (D)(2) of section 3314.091; division (D) of former section 3314.13; divisions (E), (K), (L), (M), and (N) of section 3317.023; division (C) of section 3317.20; and sections 3313.979, 3313.981, and 3326.33 of the Revised Code.

(c) For fiscal years 2012 and 2013, the amount paid in accordance with the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL SCHOOL DISTRICTS" and the adjustments required by division (C) of section 3310.08; division (C)(2) of section 3310.41; section 3310.55; division (C) of section 3314.08; division (D)(2) of section 3314.091; division (D) of former section 3314.13; divisions (B), (H), (I), (J), and (K) of section 3317.023; division (C) of section 3317.20; and sections 3313.979 and 3313.981 of the Revised Code;

(d) For fiscal year 2014 and each fiscal year thereafter, the sum of amounts computed for and paid to the district under section 3317.022 of the Revised Code; and the adjustments required by division (C) of section 3310.08, division (C)(2) of section 3310.41, section 3310.55, division (C) of

section 3314.08, division (D)(2) of section 3314.091, divisions (B), (H), (J), and (K) of section 3317.023, and sections 3313.978, 3313.981, 3317.0212, 3317.0213, 3317.0214, and 3326.33 of the Revised Code. However, for fiscal years 2014 and 2015, the amount computed for the district under the section of this act entitled "TRANSITIONAL AID FOR CITY, LOCAL, AND EXEMPTED VILLAGE SCHOOL DISTRICTS" also shall be included.

(5) "State education aid," for a joint vocational school district, means the following:

(a) For fiscal years prior to fiscal year 2010, the sum of the state aid amounts computed for the district under division (N) of section 3317.024 and section 3317.16 of the Revised Code. However, when calculating state education aid for a joint vocational school district for fiscal years 2008 and 2009, include the amount computed for the district under Section 269.30.90 of H.B. 119 of the 127th general assembly, as subsequently amended.

(b) For fiscal years 2010 and 2011, the amount computed for the district in accordance with the section of H.B. 1 of the 128th general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS."

(c) For fiscal years 2012 and 2013, the amount paid in accordance with the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS."

(d) For fiscal year 2014 and each fiscal year thereafter, the amount computed for the district under section 3317.16 of the Revised Code; except that, for fiscal years 2014 and 2015, the amount computed for the district under the section of this act entitled "TRANSITIONAL AID FOR JOINT VOCATIONAL SCHOOL DISTRICTS" shall be included.

(6) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5727.85 of the Revised Code.

(7) "Recognized valuation" means the amount computed for a school district pursuant to section 3317.015 of the Revised Code.

(8) "Electric company tax value loss" means the amount determined under division (D) of this section.

(9) "Natural gas company tax value loss" means the amount determined under division (E) of this section.

(10) "Tax value loss" means the sum of the electric company tax value loss and the natural gas company tax value loss.

(11) "Fixed-rate levy" means any tax levied on property other than a fixed-sum levy.

(12) "Fixed-rate levy loss" means the amount determined under division (G) of this section.

(13) "Fixed-sum levy" means a tax levied on property at whatever rate is required to produce a specified amount of tax money or levied in excess of the ten-mill limitation to pay debt charges, and includes school district emergency levies charged and payable pursuant to section 5705.194 of the Revised Code.

(14) "Fixed-sum levy loss" means the amount determined under division (H) of this section.

(15) "Consumer price index" means the consumer price index (all items, all urban consumers) prepared by the bureau of labor statistics of the United States department of labor.

(16) "Total resources" and "total library resources" have the same meanings as in section 5751.20 of the Revised Code.

(17) "2011 current expense S.B. 3 allocation" means the sum of payments received by a school district or joint vocational school district in fiscal year 2011 for current expense levy losses pursuant to division (C)(2) of section 5727.85 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not charged and payable in any year after tax year 2010, "2011 current expense S.B. 3 allocation" used to compute payments to be made under division (C)(3) of section 5727.85 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that those payments are attributable to the fixed-rate levy loss of that levy.

(18) "2010 current expense S.B. 3 allocation" means the sum of payments received by a municipal corporation in calendar year 2010 for current expense levy losses pursuant to division (A)(1) of section 5727.86 of the Revised Code, excluding any such payments received for current expense levy losses attributable to a tax levied under section 5705.23 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not charged and payable in any year after tax year 2010, "2010 current expense S.B. 3 allocation" used to compute payments to be made under division (A)(1)(d) or (e) of section 5727.86 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that those payments are attributable to the fixed-rate levy loss of that levy.

(19) "2010 S.B. 3 allocation" means the sum of payments received by a local taxing unit during calendar year 2010 pursuant to division (A)(1) of section 5727.86 of the Revised Code, excluding any such payments received for fixed-rate levy losses attributable to a tax levied under section 5705.23 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not charged and payable in any year after tax year 2010, "2010 S.B. 3 allocation" used to compute payments to be made under division (A)(1)(d) or (e) of section 5727.86 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that those payments are attributable to the fixed-rate levy loss of that levy.

(20) "Total S.B. 3 allocation" means, in the case of a school district or joint vocational school district, the sum of the payments received in fiscal year 2011 pursuant to divisions (C)(2) and (D) of section 5727.85 of the Revised Code. In the case of a local taxing unit, "total S.B. 3 allocation" means the sum of payments received by the unit in calendar year 2010 pursuant to divisions (A)(1) and (4) of section 5727.86 of the Revised Code, excluding any such payments received for fixed-rate levy losses attributable to a tax levied under section 5705.23 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not charged and payable in any year after tax year 2010, "total S.B. 3 allocation" used to compute payments to be made under division (C)(3) of section 5727.85 or division (A)(1)(d) or (e) of section 5727.86 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that those payments are attributable to the fixed-rate levy loss of that levy as would be computed under division (C)(2) of section 5727.85 or division (A)(1)(b) of section 5727.86 of the Revised Code.

(21) "2011 non-current expense S.B. 3 allocation" means the difference of a school district's or joint vocational school district's total S.B. 3 allocation minus the sum of the school district's 2011 current expense S.B. 3 allocation and the portion of the school district's total S.B. 3 allocation constituting reimbursement for debt levies pursuant to division (D) of section 5727.85 of the Revised Code.

(22) "2010 non-current expense S.B. 3 allocation" means the difference of a municipal

corporation's total S.B. 3 allocation minus the sum of its 2010 current expense S.B. 3 allocation and the portion of its total S.B. 3 allocation constituting reimbursement for debt levies pursuant to division (A)(4) of section 5727.86 of the Revised Code.

(23) "S.B. 3 allocation for library purposes" means, in the case of a county, municipal corporation, school district, or township public library that receives the proceeds of a tax levied under section 5705.23 of the Revised Code, the sum of the payments received by the public library in calendar year 2010 pursuant to section 5727.86 of the Revised Code for fixed-rate levy losses attributable to a tax levied under section 5705.23 of the Revised Code. If a fixed-rate levy authorized under section 5705.23 of the Revised Code that is eligible for reimbursement is not charged and payable in any year after tax year 2010, "S.B. 3 allocation for library purposes" used to compute payments to be made under division (A)(1)(f) of section 5727.86 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that those payments are attributable to the fixed-rate levy loss of that levy as would be computed under division (A)(1)(b) of section 5727.86 of the Revised Code.

(24) "Threshold per cent" means, in the case of a school district or joint vocational school district, two per cent for fiscal year 2012 and four per cent for fiscal years 2013 and thereafter. In the case of a local taxing unit or public library that receives the proceeds of a tax levied under section 5705.23 of the Revised Code, "threshold per cent" means two per cent for calendar year 2011, four per cent for calendar year 2012, and six per cent for calendar years 2013 and thereafter.

(B) The kilowatt-hour tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed by section 5727.81 of the Revised Code. All money in the kilowatt-hour tax receipts fund shall be credited as follows:

Fiscal Year	General Revenue Fund	School District Local	
		Property Tax Replacement Fund	Local Government Property Tax Replacement Fund
2001-2011	63.0%	25.4%	11.6%
2012-2015	88.0%	9.0%	3.0%

(C) The natural gas tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed by section 5727.811 of the Revised Code. All money in the fund shall be credited as follows for fiscal years before fiscal year 2012:

(1) Sixty-eight and seven-tenths per cent shall be credited to the school district property tax replacement fund for the purpose of making the payments described in section 5727.85 of the Revised Code.

(2) Thirty-one and three-tenths per cent shall be credited to the local government property tax replacement fund for the purpose of making the payments described in section 5727.86 of the Revised Code.

(D) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its electric company tax value loss, which is the sum of the applicable amounts described in divisions (D)(1) to (4) of this section:

(1) The difference obtained by subtracting the amount described in division (D)(1)(b) from the amount described in division (D)(1)(a) of this section.

(a) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 1999, and as apportioned to the taxing district for tax year 1998;

(b) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001.

(2) The difference obtained by subtracting the amount described in division (D)(2)(b) from the amount described in division (D)(2)(a) of this section.

(a) The three-year average for tax years 1996, 1997, and 1998 of the assessed value from nuclear fuel materials and assemblies assessed against a person under Chapter 5711. of the Revised Code from the leasing of them to an electric company for those respective tax years, as reflected in the preliminary assessments;

(b) The three-year average assessed value from nuclear fuel materials and assemblies assessed under division (D)(2)(a) of this section for tax years 1996, 1997, and 1998, as reflected in the preliminary assessments, using an assessment rate of twenty-five per cent.

(3) In the case of a taxing district having a nuclear power plant within its territory, any amount, resulting in an electric company tax value loss, obtained by subtracting the amount described in division (D)(1) of this section from the difference obtained by subtracting the amount described in division (D)(3)(b) of this section from the amount described in division (D)(3)(a) of this section.

(a) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2000 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2001, and as apportioned to the taxing district for tax year 2000;

(b) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2001 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2002, and as apportioned to the taxing district for tax year 2001.

(4) In the case of a taxing district having a nuclear power plant within its territory, the difference obtained by subtracting the amount described in division (D)(4)(b) of this section from the amount described in division (D)(4)(a) of this section, provided that such difference is greater than ten per cent of the amount described in division (D)(4)(a) of this section.

(a) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2005 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2006, and as apportioned to the taxing district for tax year 2005;

(b) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2006 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2007, and as apportioned to the taxing district for tax year 2006.

(E) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its natural gas company tax value loss, which is the sum of the amounts described in divisions (E)(1) and (2) of this section:

(1) The difference obtained by subtracting the amount described in division (E)(1)(b) from the amount described in division (E)(1)(a) of this section.

(a) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2000, and apportioned to the taxing district for tax year 1999;

(b) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001.

(2) The difference in the value of current gas obtained by subtracting the amount described in division (E)(2)(b) from the amount described in division (E)(2)(a) of this section.

(a) The three-year average assessed value of current gas as assessed by the tax commissioner for tax years 1997, 1998, and 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2001, and as apportioned in the taxing district for those respective years;

(b) The three-year average assessed value from current gas under division (E)(2)(a) of this section for tax years 1997, 1998, and 1999, as reflected in the preliminary assessment, using an assessment rate of twenty-five per cent.

(F) The tax commissioner may request that natural gas companies, electric companies, and rural electric companies file a report to help determine the tax value loss under divisions (D) and (E) of this section. The report shall be filed within thirty days of the commissioner's request. A company that fails to file the report or does not timely file the report is subject to the penalty in section 5727.60 of the Revised Code.

(G) Not later than January 1, 2002, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-rate levy loss, which is the sum of its electric company tax value loss multiplied by the tax rate in effect in tax year 1998 for fixed-rate levies and its natural gas company tax value loss multiplied by the tax rate in effect in tax year 1999 for fixed-rate levies.

(H) Not later than January 1, 2002, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-sum levy loss, which is the amount obtained by subtracting the amount described in division (H)(2) of this section from the amount described in division (H)(1) of this section:

(1) The sum of the electric company tax value loss multiplied by the tax rate in effect in tax year 1998, and the natural gas company tax value loss multiplied by the tax rate in effect in tax year 1999, for fixed-sum levies for all taxing districts within each school district, joint vocational school district, and local taxing unit. For the years 2002 through 2006, this computation shall include school district emergency levies that existed in 1998 in the case of the electric company tax value loss, and 1999 in the case of the natural gas company tax value loss, and all other fixed-sum levies that existed

in 1998 in the case of the electric company tax value loss and 1999 in the case of the natural gas company tax value loss and continue to be charged in the tax year preceding the distribution year. For the years 2007 through 2016 in the case of school district emergency levies, and for all years after 2006 in the case of all other fixed-sum levies, this computation shall exclude all fixed-sum levies that existed in 1998 in the case of the electric company tax value loss and 1999 in the case of the natural gas company tax value loss, but are no longer in effect in the tax year preceding the distribution year. For the purposes of this section, an emergency levy that existed in 1998 in the case of the electric company tax value loss, and 1999 in the case of the natural gas company tax value loss, continues to exist in a year beginning on or after January 1, 2007, but before January 1, 2017, if, in that year, the board of education levies a school district emergency levy for an annual sum at least equal to the annual sum levied by the board in tax year 1998 or 1999, respectively, less the amount of the payment certified under this division for 2002.

(2) The total taxable value in tax year 1999 less the tax value loss in each school district, joint vocational school district, and local taxing unit multiplied by one-fourth of one mill.

If the amount computed under division (H) of this section for any school district, joint vocational school district, or local taxing unit is greater than zero, that amount shall equal the fixed-sum levy loss reimbursed pursuant to division (F) of section 5727.85 of the Revised Code or division (A)(2) of section 5727.86 of the Revised Code, and the one-fourth of one mill that is subtracted under division (H)(2) of this section shall be apportioned among all contributing fixed-sum levies in the proportion of each levy to the sum of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit.

(I) Notwithstanding divisions (D), (E), (G), and (H) of this section, in computing the tax value loss, fixed-rate levy loss, and fixed-sum levy loss, the tax commissioner shall use the greater of the 1998 tax rate or the 1999 tax rate in the case of levy losses associated with the electric company tax value loss, but the 1999 tax rate shall not include for this purpose any tax levy approved by the voters after June 30, 1999, and the tax commissioner shall use the greater of the 1999 or the 2000 tax rate in the case of levy losses associated with the natural gas company tax value loss.

(J) Not later than January 1, 2002, the tax commissioner shall certify to the department of education the tax value loss determined under divisions (D) and (E) of this section for each taxing district, the fixed-rate levy loss calculated under division (G) of this section, and the fixed-sum levy loss calculated under division (H) of this section. The calculations under divisions (G) and (H) of this section shall separately display the levy loss for each levy eligible for reimbursement.

(K) Not later than September 1, 2001, the tax commissioner shall certify the amount of the fixed-sum levy loss to the county auditor of each county in which a school district with a fixed-sum levy loss has territory.

**Sec. 5727.85.** No determinations, computations, certifications, or payments shall be made under this section after June 30, 2015.

(A) By the thirty-first day of July of each year, beginning in 2002 and ending in 2010, the department of education shall determine the following for each school district and each joint vocational school district:

(1) The state education aid offset, which, except as provided in division (A)(1)(c) of this section, is the difference obtained by subtracting the amount described in division (A)(1)(b) of this

section from the amount described in division (A)(1)(a) of this section:

(a) The state education aid computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July;

(b) The state education aid that would be computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July if the recognized valuation included the tax value loss for the school district or joint vocational school district;

(c) The state education aid offset for fiscal year 2010 and fiscal year 2011 equals the greater of the state education aid offset calculated for that fiscal year under divisions (A)(1)(a) and (b) of this section or the state education aid offset calculated for fiscal year 2009.

(2) For fiscal years 2008 through 2011, the greater of zero or the difference obtained by subtracting the state education aid offset determined under division (A)(1) of this section from the fixed-rate levy loss certified under division (J) of section 5727.84 of the Revised Code for all taxing districts in each school district and joint vocational school district.

By the fifth day of August of each such year, the department of education shall certify the amount so determined under division (A)(1) of this section to the director of budget and management.

(B) Not later than the thirty-first day of October of the years 2006 through 2010, the department of education shall determine all of the following for each school district:

(1) The amount obtained by subtracting the district's state education aid computed for fiscal year 2002 from the district's state education aid computed for the current fiscal year as of the fifteenth day of July, by including in the definition of recognized valuation the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses, as defined in section 5751.20 of the Revised Code, for the school district or joint vocational school district for the preceding tax year;

(2) The inflation-adjusted property tax loss. The inflation-adjusted property tax loss equals the fixed-rate levy loss, excluding the tax loss from levies within the ten-mill limitation to pay debt charges, determined under division (D) of section 5727.84 of the Revised Code for all taxing districts in each school district, plus the product obtained by multiplying that loss by the cumulative percentage increase in the consumer price index from January 1, 2002, to the thirtieth day of June of the current year.

(3) The difference obtained by subtracting the amount computed under division (B)(1) from the amount of the inflation-adjusted property tax loss. If this difference is zero or a negative number, no further payments shall be made under division (C) of this section to the school district from the school district property tax replacement fund.

(C) Beginning in 2002 for school districts and beginning in August 2011 for joint vocational school districts, the department of education shall pay from the school district property tax replacement fund to each school district all of the following:

(1) In February 2002, one-half of the fixed-rate levy loss certified under division (G) of section 5727.84 of the Revised Code between the twenty-first and twenty-eighth days of February.

(2) From August 2002 through February 2011, one-half of the amount calculated for that fiscal year under division (A)(2) of this section between the twenty-first and twenty-eighth days of August and of February, provided the difference computed under division (B)(3) of this section is not



less than or equal to zero.

(3) For fiscal years 2012 and thereafter, the sum of the amounts in divisions (C)(3)(a) or (b) and (c) of this section shall be paid on or before the thirty-first day of August and the twenty-eighth day of February:

(a) If the ratio of 2011 current expense S.B. 3 allocation to total resources is equal to or less than the threshold per cent, zero;

(b) If the ratio of 2011 current expense S.B. 3 allocation to total resources is greater than the threshold per cent, fifty per cent of the difference of 2011 current expense S.B. 3 allocation minus the product of total resources multiplied by the threshold per cent;

(c) Fifty per cent of the product of 2011 non-current expense S.B. 3 allocation multiplied by seventy-five per cent for fiscal year 2012 and fifty per cent for fiscal years 2013 and thereafter.

The department of education shall report to each school district the apportionment of the payments among the school district's funds based on the certifications under division (J) of section 5727.84 of the Revised Code.

(D) For taxes levied within the ten-mill limitation for debt purposes in tax year 1998 in the case of electric company tax value losses, and in tax year 1999 in the case of natural gas company tax value losses, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2016.

(E) Not later than January 1, 2002, for all taxing districts in each joint vocational school district, the tax commissioner shall certify to the department of education the fixed-rate levy loss determined under division (G) of section 5727.84 of the Revised Code. From February 2002 through February 2011, the department shall pay from the school district property tax replacement fund to the joint vocational school district one-half of the amount calculated for that fiscal year under division (A)(2) of this section between the twenty-first and twenty-eighth days of August and of February.

(F)(1) Not later than January 1, 2002, for each fixed-sum levy levied by each school district or joint vocational school district and for each year for which a determination is made under division (H) of section 5727.84 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the department of education the fixed-sum levy loss determined under that division. The certification shall cover a time period sufficient to include all fixed-sum levies for which the tax commissioner made such a determination. The department shall pay from the school district property tax replacement fund to the school district or joint vocational school district one-half of the fixed-sum levy loss so certified for each year between the twenty-first and twenty-eighth days of August and of February.

(2) Beginning in 2003, by the thirty-first day of January of each year, the tax commissioner shall review the certification originally made under division (F)(1) of this section. If the commissioner determines that a debt levy that had been scheduled to be reimbursed in the current year has expired, a revised certification for that and all subsequent years shall be made to the department of education.

(G) If the balance of the half-mill equalization fund created under section 3318.18 of the Revised Code is insufficient to make the full amount of payments required under division (D) of that section, the department of education, at the end of the third quarter of the fiscal year, shall certify to

the director of budget and management the amount of the deficiency, and the director shall transfer an amount equal to the deficiency from the school district property tax replacement fund to the half-mill equalization fund.

(H) Beginning in August 2002, and ending in May 2011, the director of budget and management shall transfer from the school district property tax replacement fund to the general revenue fund each of the following:

(1) Between the twenty-eighth day of August and the fifth day of September, the lesser of one-half of the amount certified for that fiscal year under division (A)(2) of this section or the balance in the school district property tax replacement fund;

(2) Between the first and fifth days of May, the lesser of one-half of the amount certified for that fiscal year under division (A)(2) of this section or the balance in the school district property tax replacement fund.

(I) On the first day of June each year, the director of budget and management shall transfer any balance remaining in the school district property tax replacement fund after the payments have been made under divisions (C), (D), (E), (F), (G), and (H) of this section to the half-mill equalization fund created under section 3318.18 of the Revised Code to the extent required to make any payments in the current fiscal year under that section, and shall transfer the remaining balance to the general revenue fund.

(J) After fiscal year 2002, if the total amount in the school district property tax replacement fund is insufficient to make all payments under divisions (C), (D), (E), (F), and (G) of this section at the time the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the school district property tax replacement fund the difference between the total amount to be paid and the total amount in the school district property tax replacement fund, except that no transfer shall be made by reason of a deficiency to the extent that it results from the amendment of section 5727.84 of the Revised Code by Amended Substitute House Bill No. 95 of the 125th general assembly.

(K) If all of the territory of a school district or joint vocational school district is merged with an existing district, or if a part of the territory of a school district or joint vocational school district is transferred to an existing or new district, the department of education, in consultation with the tax commissioner, shall adjust the payments made under this section as follows:

(1) For the merger of all of the territory of two or more districts, the total resources, 2011 current expense S.B. 3 allocation, total 2011 S.B. 3 allocation, 2011 non-current expense S.B. 3 allocation, and fixed-sum levy loss of the successor district shall be equal to the sum of the total resources, 2011 current expense S.B. 3 allocation, total 2011 S.B. 3 allocation, 2011 non-current expense S.B. 3 allocation, and fixed-sum levy loss for each of the districts involved in the merger.

(2) For the transfer of a part of one district's territory to an existing district, the amount of the total resources, 2011 current expense S.B. 3 allocation, total 2011 S.B. 3 allocation, and 2011 non-current expense S.B. 3 allocation that is transferred to the recipient district shall be an amount equal to the transferring district's total resources, 2011 current expense S.B. 3 allocation, total 2011 S.B. 3 allocation, and 2011 non-current expense S.B. 3 allocation times a fraction, the numerator of which is the number of pupils being transferred to the recipient district, measured, in the case of a school district, by formula ADM as that term is defined in section 3317.02 of the Revised Code or, in the

case of a joint vocational school district, by formula ADM as defined for a joint vocational school district in that section, and the denominator of which is the average daily membership or formula ADM of the transferor district. Fixed-sum levy losses for both districts shall be determined under division (K)(4) of this section.

(3) For the transfer of a part of the territory of one or more districts to create a new district:

(a) If the new district is created on or after January 1, 2000, but before January 1, 2005, the new district shall be paid its current fixed-rate levy loss through August 2009. In February 2010, August 2010, and February 2011, the new district shall be paid fifty per cent of the lesser of: (i) the amount calculated under division (C)(2) of this section or (ii) an amount equal to seventy per cent of the new district's fixed-rate levy loss.

Beginning in fiscal year 2012, the new district shall be paid as provided in division (C) of this section.

Fixed-sum levy losses for the districts shall be determined under division (K)(4) of this section.

(b) If the new district is created on or after January 1, 2005, the new district shall be deemed not to have any fixed-rate levy loss or, except as provided in division (K)(4) of this section, fixed-sum levy loss. The district or districts from which the territory was transferred shall have no reduction in their fixed-rate levy loss, or, except as provided in division (K)(4) of this section, their fixed-sum levy loss.

(4) If a recipient district under division (K)(2) of this section or a new district under division (K)(3)(a) or (b) of this section takes on debt from one or more of the districts from which territory was transferred, and any of the districts transferring the territory had fixed-sum levy losses, the department of education, in consultation with the tax commissioner, shall make an equitable division of the fixed-sum levy losses.

**Sec. 5727.86.** No determinations, computations, certifications, or payments shall be made under this section after June 30, 2015.

(A) The tax commissioner shall compute the payments to be made to each local taxing unit, and to each public library that receives the proceeds of a tax levied under section 5705.23 of the Revised Code, for each year according to divisions (A)(1), (2), (3), and (4) and division (E) of this section, and shall distribute the payments in the manner prescribed by division (C) of this section. The calculation of the fixed-sum levy loss shall cover a time period sufficient to include all fixed-sum levies for which the tax commissioner determined, pursuant to division (H) of section 5727.84 of the Revised Code, that a fixed-sum levy loss is to be reimbursed.

(1) Except as provided in divisions (A)(3) and (4) of this section, the following amounts shall be paid on or before the thirty-first day of August and the twenty-eighth day of February:

(a) For years 2002 through 2006, fifty per cent of the fixed-rate levy loss computed under division (G) of section 5727.84 of the Revised Code;

(b) For years 2007 through 2010, forty per cent of the fixed-rate levy loss computed under division (G) of section 5727.84 of the Revised Code;

(c) For the payment in 2011 to be made on or before the twentieth day of February, the amount required to be paid in 2010 on or before the twentieth day of February;

(d) For the payment in 2011 to be made on or before the thirty-first day of August, the sum of

the amounts in divisions (A)(1)(d)(i) or (ii) and (iii) of this section:

(i) If the ratio of fifty per cent of the taxing unit's 2010 S.B. 3 allocation to its total resources is equal to or less than the threshold per cent, zero;

(ii) If the ratio of fifty per cent of the taxing unit's 2010 S.B. 3 allocation to its total resources is greater than the threshold per cent, the difference of fifty per cent of the 2010 S.B. 3 allocation minus the product of total resources multiplied by the threshold per cent;

(iii) In the case of a municipal corporation, fifty per cent of the product of its 2010 non-current expense S.B. 3 allocation multiplied by seventy-five per cent.

(e) For 2012 and each year thereafter, the sum of the amounts in divisions (A)(1)(e)(i) or (ii) and (iii) of this section:

(i) If the ratio of the taxing unit's 2010 S.B. 3 allocation to its total resources is equal to or less than the threshold per cent, zero;

(ii) If the ratio of the taxing unit's 2010 S.B. 3 allocation to its total resources is greater than the threshold per cent, fifty per cent of the difference of the 2010 S.B. 3 allocation minus the product of total resources multiplied by the threshold per cent;

(iii) In the case of a municipal corporation, fifty per cent of the product of its 2010 non-current expense S.B. 3 allocation multiplied by fifty per cent for year 2012 and by twenty-five per cent for years 2013 and thereafter.

(f) For the payment in 2012 to be made to a public library on or before the thirty-first day of August and for all such payments to be made in 2013 and thereafter, the amount in division (A)(1)(f)(i) or (ii) of this section:

(i) If the ratio of S.B. 3 allocation for library purposes to total library resources is equal to or less than the threshold per cent, zero;

(ii) If the ratio of S.B. 3 allocation for library purposes to total library resources is greater than the threshold per cent, fifty per cent of the difference of the S.B. 3 allocation for library purposes minus the product of total library resources multiplied by the threshold per cent.

(2) For fixed-sum levy losses determined under division (H) of section 5727.84 of the Revised Code, payments shall be made in the amount of one hundred per cent of the fixed-sum levy loss for payments required to be made in 2002 and thereafter.

(3) A local taxing unit in a county of less than two hundred fifty square miles that receives eighty per cent or more of its combined general fund and bond retirement fund revenues from property taxes and rollbacks based on 1997 actual revenues as presented in its 1999 tax budget, and in which electric companies and rural electric companies comprise over twenty per cent of its property valuation, shall receive one hundred per cent of its fixed-rate levy losses from electric company tax value losses certified under division (A) of this section in years 2002 to 2010. Beginning in 2011, payments for such local taxing units shall be determined under division (A)(1) of this section.

(4) For taxes levied within the ten-mill limitation or pursuant to a municipal charter for debt purposes in tax year 1998 in the case of electric company tax value losses, and in tax year 1999 in the case of natural gas company tax value losses, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from 2011 through 2016 if the levy was charged and payable for debt purposes in tax year 2010. If the levy is

not charged and payable for debt purposes in tax year 2010 or any following tax year before tax year 2016, payments for that levy shall be made under division (A)(1) of this section beginning with the first year after the year the levy is charged and payable for a purpose other than debt. For the purposes of this division, taxes levied pursuant to a municipal charter refer to taxes levied pursuant to a provision of a municipal charter that permits the tax to be levied without prior voter approval.

(B) Beginning in 2003, by the thirty-first day of January of each year, the tax commissioner shall review the calculation originally made under division (A) of this section of the fixed-sum levy loss determined under division (H) of section 5727.84 of the Revised Code. If the commissioner determines that a fixed-sum levy that had been scheduled to be reimbursed in the current year has expired, a revised calculation for that and all subsequent years shall be made.

(C) Payments to local taxing units and public libraries required to be made under divisions (A) and (E) of this section shall be paid from the local government property tax replacement fund to the county undivided income tax fund in the proper county treasury. The county treasurer shall distribute amounts paid under division (A) of this section to the proper local taxing unit or public library as if they had been levied and collected as taxes, and the local taxing unit or public library shall apportion the amounts so received among its funds in the same proportions as if those amounts had been levied and collected as taxes. Except in the case of amounts distributed to the county as a local taxing unit, amounts distributed under division (E)(2) of this section shall be credited to the general fund of the local taxing unit that receives them. Amounts distributed to each county as a local taxing unit under division (E)(2) of this section shall be credited in the proportion that the current taxes charged and payable from each levy of or by the county bears to the total current taxes charged and payable from all levies of or by the county.

(D) By February 5, 2002, the tax commissioner shall estimate the amount of money in the local government property tax replacement fund in excess of the amount necessary to make payments in that month under division (C) of this section. Notwithstanding division (A) of this section, the tax commissioner may pay any local taxing unit, from those excess funds, nine and four-tenths times the amount computed for 2002 under division (A)(1) of this section. A payment made under this division shall be in lieu of the payment to be made in February 2002 under division (A)(1) of this section. A local taxing unit receiving a payment under this division will no longer be entitled to any further payments under division (A)(1) of this section. A payment made under this division shall be paid from the local government property tax replacement fund to the county undivided income tax fund in the proper county treasury. The county treasurer shall distribute the payment to the proper local taxing unit as if it had been levied and collected as taxes, and the local taxing unit shall apportion the amounts so received among its funds in the same proportions as if those amounts had been levied and collected as taxes.

(E)(1) On the thirty-first day of July of 2002, 2003, 2004, 2005, and 2006, and on the thirty-first day of January and July of 2007 through January 2011, if the amount credited to the local government property tax replacement fund exceeds the amount needed to be distributed from the fund under division (A) of this section in the following month, the tax commissioner shall distribute the excess to each county as follows:

- (a) One-half shall be distributed to each county in proportion to each county's population.
- (b) One-half shall be distributed to each county in the proportion that the amounts determined

under divisions (G) and (H) of section 5727.84 of the Revised Code for all local taxing units in the county is of the total amounts so determined for all local taxing units in the state.

(2) The amounts distributed to each county under division (E) of this section shall be distributed by the county auditor to each local taxing unit in the county in the proportion that the unit's current taxes charged and payable are of the total current taxes charged and payable of all the local taxing units in the county. If the amount that the county auditor determines to be distributed to a local taxing unit is less than five dollars, that amount shall not be distributed, and the amount not distributed shall remain credited to the county undivided income tax fund. At the time of the next distribution under division (E)(2) of this section, any amount that had not been distributed in the prior distribution shall be added to the amount available for the next distribution prior to calculation of the amount to be distributed. As used in this division, "current taxes charged and payable" means the taxes charged and payable as most recently determined for local taxing units in the county.

After January 2011, any amount that exceeds the amount needed to be distributed from the fund under division (A) of this section in the following month shall be transferred to the general revenue fund.

(F) If the total amount in the local government property tax replacement fund is insufficient to make all payments under division (C) of this section at the times the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the local government property tax replacement fund the difference between the total amount to be paid and the amount in the local government property tax replacement fund, except that no transfer shall be made by reason of a deficiency to the extent that it results from the amendment of section 5727.84 of the Revised Code by Amended Substitute House Bill 95 of the 125th general assembly.

(G) If all or a part of the territories of two or more local taxing units are merged, or unincorporated territory of a township is annexed by a municipal corporation, the tax commissioner shall adjust the payments made under this section to each of the local taxing units in proportion to the square mileage apportioned to the merged or annexed territory, or as otherwise provided by a written agreement between the legislative authorities of the local taxing units certified to the tax commissioner not later than the first day of June of the calendar year in which the payment is to be made.

**Sec. 5729.16.** (A) Terms used in this section have the same meaning as in section 5725.33 of the Revised Code.

(B) There is hereby allowed a nonrefundable credit against the tax imposed by section 5729.03 or 5729.06 of the Revised Code for a foreign insurance company holding a qualified equity investment on the credit allowance date occurring in the calendar year for which the tax is due. The credit shall be computed in the same manner prescribed for the computation of credits allowed under section 5725.33 of the Revised Code.

The credit shall be claimed in the order prescribed by section 5729.98 of the Revised Code. If the amount of the credit exceeds the amount of tax otherwise due after deducting all other credits in that order, the excess may be carried forward and applied to the tax due for not more than four ensuing years.

By claiming a tax credit under this section, an insurance company waives its rights under section 5729.102 of the Revised Code with respect to the time limitation for the assessment of taxes

as it relates to credits claimed that later become subject to recapture under division (D) of this section.

(C) The total amount of qualified equity investments on the basis of which credits may be claimed under this section, section 5725.33, and section 5733.58 of the Revised Code is subject to the limitation of division (C) of section 5725.33 of the Revised Code.

(D) If any amount of a federal tax credit allowed for a qualified equity investment for which a credit was received under this section is recaptured under section 45D of the Internal Revenue Code, or if the director of development services determines that an investment for which a tax credit is claimed under this section is not a qualified equity investment or that the proceeds of an investment for which a tax credit is claimed under this section are used to make qualified low-income community investments other than in a qualified active low-income community business in this state, all or a portion of the credit received on account of that investment shall be paid by the insurance company that received the credit to the superintendent of insurance. The amount to be recovered shall be determined by the director of development services pursuant to rules adopted under section 5725.33 of the Revised Code. The director shall certify any amount due under this division to the superintendent of insurance, and the superintendent shall notify the treasurer of state of the amount due. Upon notification, the treasurer shall invoice the insurance company for the amount due. The amount due is payable not later than thirty days after the date the treasurer invoices the insurance company. The amount due shall be considered to be tax due under section 5729.03 or 5729.06 of the Revised Code, as applicable, and may be collected by assessment without regard to the time limitations imposed under section 5729.102 of the Revised Code for the assessment of taxes by the superintendent. All amounts collected under this division shall be credited as revenue from the tax levied under section 5729.03 of the Revised Code.

**Sec. 5729.98.** (A) To provide a uniform procedure for calculating the amount of tax due under this chapter, a taxpayer shall claim any credits and offsets against tax liability to which it is entitled in the following order:

(1) The credit for an insurance company or insurance company group under section 5729.031 of the Revised Code;

(2) The credit for eligible employee training costs under section 5729.07 of the Revised Code;

(3) The credit for purchases of qualified low-income community investments under section 5729.16 of the Revised Code;

(4) The nonrefundable job retention credit under division (B) of section 122.171 of the Revised Code;

(5) The nonrefundable credit for investments in rural business growth funds under section 122.152 of the Revised Code;

(6) The offset of assessments by the Ohio life and health insurance guaranty association against tax liability permitted by section 3956.20 of the Revised Code;

(7) The refundable credit for rehabilitating a historic building under section 5729.17 of the Revised Code;

(8) The refundable credit for Ohio job retention under former division (B)(2) or (3) of section 122.171 of the Revised Code as those divisions existed before September 29, 2015, the effective date

of the amendment of this section by H.B. 64 of the 131st general assembly;

(9) The refundable credit for Ohio job creation under section 5729.032 of the Revised Code;

(10) The refundable credit under section 5729.08 of the Revised Code for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code.

(B) For any credit except the refundable credits enumerated in this section, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.

**Sec. 5733.0610.** (A) A refundable corporation franchise tax credit granted by the tax credit authority under section 122.17 or former division (B)(2) or (3) of section 122.171 of the Revised Code, as those divisions existed before September 29, 2015, the effective date of the amendment of this section by H.B. 64 of the 131st general assembly, may be claimed under this chapter in the order required under section 5733.98 of the Revised Code. For purposes of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid to this state on the first day of the tax year. The refundable credit shall not be claimed for any tax years following the calendar year in which a relocation of employment positions occurs in violation of an agreement entered into under section 122.17 or 122.171 of the Revised Code.

(B) A nonrefundable corporation franchise tax credit granted by the tax credit authority under division (B) of section 122.171 of the Revised Code may be claimed under this chapter in the order required under section 5733.98 of the Revised Code.

**Sec. 5733.58.** (A) Terms used in this section have the same meaning as in section 5725.33 of the Revised Code.

(B) There is hereby allowed a nonrefundable credit against the tax imposed by section 5733.06 of the Revised Code for a financial institution holding a qualified equity investment on the credit allowance date occurring in the calendar year immediately preceding the tax year for which the tax is due. The credit shall be computed in the same manner prescribed for the computation of credits allowed under section 5725.33 of the Revised Code.

By claiming a tax credit under this section, a financial institution waives its rights under section 5733.11 of the Revised Code with respect to the time limitation for the assessment of taxes as it relates to credits claimed that later become subject to recapture under division (D) of this section.

The credit shall be claimed in the order prescribed by section 5733.98 of the Revised Code. If the amount of the credit exceeds the amount of tax otherwise due after deducting all other credits in that order, the excess may be carried forward and applied to the tax due for not more than four ensuing tax years.

(C) The total amount of qualified equity investments on the basis of which credits may be claimed under this section and sections 5725.33 and 5729.16 of the Revised Code is subject to the limitation of division (C) of section 5725.33 of the Revised Code.

(D) If any amount of a federal tax credit allowed for a qualified equity investment for which a credit was received under this section is recaptured under section 45D of the Internal Revenue Code, or if the director of development services determines that an investment for which a tax credit is claimed under this section is not a qualified equity investment or that the proceeds of an investment



for which a tax credit is claimed under this section are used to make qualified low-income community investments other than in a qualified active low-income community business in this state, all or a portion of the credit received on account of that investment shall be paid by the financial institution that received the credit to the tax commissioner. The amount to be recovered shall be determined by the director of development services pursuant to rules adopted under section 5725.33 of the Revised Code. The director shall certify any amount due under this division to the tax commissioner, and the commissioner shall notify the financial institution of the amount due. The amount due is payable not later than thirty days after the day the commissioner issues the notice. The amount due shall be considered to be tax due under section 5733.06 of the Revised Code, and may be collected by assessment without regard to the limitations imposed under section 5733.11 of the Revised Code for the assessment of taxes by the commissioner. All amounts collected under this division shall be credited as revenue from the tax levied under section 5733.06 of the Revised Code.

**Sec. 5736.01.** As used in this chapter:

(A) "Calendar quarter" and "person" have the same meanings as in section 5751.01 of the Revised Code.

(B) "Distribution system" means a bulk transfer or terminal system for the distribution of motor fuel consisting of refineries, pipelines, marine vessels, and terminals. For the purposes of this section, motor fuel that is in a refinery, pipeline, terminal, or marine vessel or that is en route to a refinery, pipeline, or terminal via any method of transportation is in a "distribution system." Motor fuel is "outside of a distribution system" if the fuel is in a fuel storage facility, including, but not limited to, a bulk plant that is not part of a refinery or terminal, is in the fuel supply tank of an engine or motor vehicle, or is being transported by a marine vessel, tank car, rail car, trailer, truck, or other suitable equipment to a fuel storage facility that is not in a distribution system.

(C) "Dyed diesel fuel," "import," "motor fuel," "public highways," "gasoline," "diesel fuel," "licensed motor fuel dealer," "licensed permissive motor fuel dealer," and "terminal" have the same meanings as in section 5735.01 of the Revised Code. "Gallons" means gross gallons as defined in section 5735.01 of the Revised Code.

(D) "First sale of motor fuel within this state" means the initial sale of motor fuel to a point outside a distribution system, wherever the sale occurs, without regard to where title transfers or other conditions of sale, when sold for delivery to a location in this state as that location is shown on the bill of lading or other similar document issued by the terminal, refinery, or supplier. "First sale of motor fuel within this state" excludes the following:

(1) Motor fuel exchanges;

(2) The sale of motor fuel on which the petroleum activity tax imposed by this chapter was paid in a prior quarterly tax payment period and on which the supplier may claim a bad debt. As used in this division, "bad debt" has the same meaning as in section 5751.01 of the Revised Code.

(E)(1) "Calculated gross receipts" means the sum of the following:

(a) With respect to sales of gasoline, the product obtained by multiplying (i) the total number of gallons of gasoline first sold within this state by a supplier during the tax period by (ii) the average wholesale price of a gallon of unleaded regular gasoline for the calendar quarter that begins six months before the upcoming calendar quarter, as published by the tax commissioner under division (C) of section 5736.02 of the Revised Code;

(b) With respect to sales of propane, the product obtained by multiplying (i) the total number of gallons of propane first sold within this state by a supplier during the tax period by (ii) the average wholesale price of a gallon of propane for the calendar quarter that begins six months before the upcoming calendar quarter, as published by the tax commissioner under division (C) of section 5736.02 of the Revised Code;

(c) With respect to sales of motor fuel that is not gasoline or propane, the product obtained by multiplying (i) the total number of gallons of motor fuel first sold within this state by a supplier during the tax period by (ii) the average wholesale price of a gallon of diesel fuel for the calendar quarter that begins six months before the upcoming calendar quarter, as published by the tax commissioner under division (C) of section 5736.02 of the Revised Code.

(2) A supplier that has acquired blend stocks or additives with respect to which the tax imposed by this chapter has previously been paid may exclude the product of the following amounts from the calculation of the supplier's "calculated gross receipts" under division (E) of this section, provided that the supplier uses the blend stocks or additives for blending with motor fuel:

(a) The number of gallons of the blend stocks or additives;

(b) The average wholesale price of a gallon of such blend stocks or additives for the calendar quarter in which the tax was paid on the blend stocks or additives.

The supplier may rely upon an invoice issued by the seller of the blend stocks or additives as evidence that the tax imposed by this section has been remitted with respect to the blend stocks or additives, provided that the invoice lists the tax as a separate charge, the seller is included on the list maintained by the tax commissioner under section 5736.041 of the Revised Code, and the supplier maintains the invoice in accordance with section 5736.12 of the Revised Code.

(F) "Motor fuel used to propel vehicles on public highways and waterways" includes motor fuel used for the operation of licensed motor vehicles employed in the maintenance, construction, or repair of public highways. "Motor fuel used to propel vehicles on public highways and waterways" does not include dyed diesel fuel.

(G) "Rack" means a mechanism capable of delivering motor fuel from a refinery, terminal, or marine vessel into a railroad tank car, transport truck, tank wagon, fuel supply tank, marine vessel, or other means of transport outside of a distribution system.

(H) "Refinery" means a facility used to produce motor fuel and from which motor fuel may be removed by pipeline, by vessel, or at a rack.

(I) "Supplier" means any of the following:

(1) A person that sells, exchanges, transfers, or otherwise distributes motor fuel from a terminal or refinery rack to a point outside of a distribution system, if the person distributes such motor fuel at a location in this state;

(2) A person that imports or causes the importation of motor fuel for sale, exchange, transfer, or other distribution by the person to a point outside of a distribution system in this state;

(3) A person that knowingly purchases motor fuel from an unlicensed supplier.

(J) "Tax period" means the calendar quarter on the basis of which a taxpayer is required to pay the tax imposed under this chapter.

(K) "Taxpayer" means a person subject to the tax imposed by this chapter.

(L) "Waterways" means all streams, lakes, ponds, marshes, water courses, and all other

bodies of surface water, natural or artificial, which are situated wholly or partially within this state or within its jurisdiction, except private impounded bodies of water.

(M) "Motor fuel exchange" means an exchange of motor fuel between two or more suppliers, licensed motor fuel dealers, or licensed permissive motor fuel dealers if delivery occurs at a refinery, terminal, pipeline, or marine vessel and if the parties agree that neither party requires monetary compensation from the other party for the exchanged fuel other than compensation for differences in product location, grade, or handling.

**Sec. 5736.02.** (A) Beginning with the tax period that commences July 1, 2014, and continuing for every tax period thereafter, there is hereby levied an excise tax on each supplier measured by the supplier's calculated gross receipts derived from the first sale of motor fuel within this state. The tax due shall be computed by multiplying sixty-five one-hundredths of one per cent by the supplier's calculated gross receipts.

All revenue from the tax shall be distributed as follows:

(1) All revenue from the tax as measured by calculated gross receipts derived from the sale of motor fuel used for propelling vehicles on public highways and waterways shall be used for the purposes of maintaining the state highway system, funding the enforcement of traffic laws, and covering the costs of hospitalization of indigent persons injured in motor vehicle accidents on the public highways.

(2) All revenue not distributed as required by division (A)(1) of this section shall be used for the purpose of funding the needs of this state and its local governments.

(B) The tax imposed by this section is in addition to any other taxes or fees imposed under the Revised Code.

(C) The tax commissioner shall determine and publish, on the web site of the department of taxation, the statewide average wholesale prices of a gallon of unleaded regular gasoline, of a gallon of propane, and of a gallon of diesel fuel for each calendar quarter. The commissioner's determination is presumed to be correct unless clearly erroneous. The figure shall be published at least fifteen days before the beginning of the calendar quarter. The commissioner shall base the average price on pricing information available from the United States energy information administration or, if such information is not available from that agency, from another publicly available source selected by the commissioner. The commissioner shall first make reasonable efforts to obtain data specific to this state before using national data to determine the average wholesale price. The price shall not include any federal or state excise taxes on the gasoline or diesel fuel, or the tax imposed by this chapter. The price shall be rounded up to the nearest one-tenth of one cent.

(D) Nothing in this chapter prohibits a person from separately or proportionately billing or invoicing the tax imposed by this section to a purchaser of motor fuel.

(E) The tax imposed by this section applies only to suppliers having a substantial nexus with this state, as that term is defined in section 5751.01 of the Revised Code. A supplier that does not have substantial nexus with the state may voluntarily obtain a license from the commissioner under section 5736.06 of the Revised Code. A supplier that voluntarily obtains a license from the commissioner is entitled to the same benefits and is subject to the same duties and requirements as are suppliers required to be licensed with the commissioner.

**Sec. 5736.50.** (A) A taxpayer granted a credit by the tax credit authority under section 122.17

or former division (B)(2) or (3) of section 122.171 of the Revised Code, as those divisions existed before September 29, 2015, the effective date of the amendment of this section by H.B. 64 of the 131st general assembly, may claim a refundable credit against the tax imposed under this chapter. For the purpose of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid on the first day of the tax period.

(B) A nonrefundable credit granted by the tax credit authority under division (B) of section 122.171 of the Revised Code may be claimed against the tax imposed under this chapter.

(C) Credits authorized in division (A) or (B) of this section shall not be claimed for any tax period beginning after the date on which a relocation of employment positions occurs in violation of an agreement entered into under section 122.17 or 122.171 of the Revised Code.

(D) A taxpayer may claim any unused portion of the credit authorized under division (B) of section 5751.50 of the Revised Code against the tax imposed under this chapter. No credit shall be allowed under this division if the credit was available against the tax imposed under section 5751.02 of the Revised Code except to the extent the credit was not applied against that tax.

(E) The amount of a credit claimed under division (B) or (D) of this section shall not exceed the tax otherwise due for the tax period. If the credit allowed under division (B) or (D) of this section exceeds the tax otherwise due, the excess may be carried forward to the extent authorized by section 122.171 of the Revised Code.

If a taxpayer is authorized to claim credits under division (A) and either or both of divisions (B) and (D) of this section for the same tax period, the taxpayer shall claim the credit allowed under division (B) or (D) before the credit allowed under division (A) of this section.

**Sec. 5739.01.** As used in this chapter:

(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, the state and its political subdivisions, and combinations of individuals of any form.

(B) "Sale" and "selling" include all of the following transactions for a consideration in any manner, whether absolutely or conditionally, whether for a price or rental, in money or by exchange, and by any means whatsoever:

(1) All transactions by which title or possession, or both, of tangible personal property, is or is to be transferred, or a license to use or consume tangible personal property is or is to be granted;

(2) All transactions by which lodging by a hotel is or is to be furnished to transient guests;

(3) All transactions by which:

(a) An item of tangible personal property is or is to be repaired, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code;

(b) An item of tangible personal property is or is to be installed, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code or property that is or is to be incorporated into and will become a part of a production, transmission, transportation, or distribution system for the delivery of a public utility service;

(c) The service of washing, cleaning, waxing, polishing, or painting a motor vehicle is or is to be furnished;

(d) Until August 1, 2003, industrial laundry cleaning services are or are to be provided and, on and after August 1, 2003, laundry and dry cleaning services are or are to be provided;

(e) Automatic data processing, computer services, or electronic information services are or are to be provided for use in business when the true object of the transaction is the receipt by the consumer of automatic data processing, computer services, or electronic information services rather than the receipt of personal or professional services to which automatic data processing, computer services, or electronic information services are incidental or supplemental. Notwithstanding any other provision of this chapter, such transactions that occur between members of an affiliated group are not sales. An "affiliated group" means two or more persons related in such a way that one person owns or controls the business operation of another member of the group. In the case of corporations with stock, one corporation owns or controls another if it owns more than fifty per cent of the other corporation's common stock with voting rights.

(f) Telecommunications service, including prepaid calling service, prepaid wireless calling service, or ancillary service, is or is to be provided, but not including coin-operated telephone service;

(g) Landscaping and lawn care service is or is to be provided;

(h) Private investigation and security service is or is to be provided;

(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;

(j) Building maintenance and janitorial service is or is to be provided;

(k) Employment service is or is to be provided;

(l) Employment placement service is or is to be provided;

(m) Exterminating service is or is to be provided;

(n) Physical fitness facility service is or is to be provided;

(o) Recreation and sports club service is or is to be provided;

(p) On and after August 1, 2003, satellite broadcasting service is or is to be provided;

(q) On and after August 1, 2003, personal care service is or is to be provided to an individual.

As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.

(r) On and after August 1, 2003, the transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102;

(s) On and after August 1, 2003, motor vehicle towing service is or is to be provided. As used in this division, "motor vehicle towing service" means the towing or conveyance of a wrecked, disabled, or illegally parked motor vehicle.

(t) On and after August 1, 2003, snow removal service is or is to be provided. As used in this division, "snow removal service" means the removal of snow by any mechanized means, but does not include the providing of such service by a person that has less than five thousand dollars in sales of such service during the calendar year.

(u) Electronic publishing service is or is to be provided to a consumer for use in business,

except that such transactions occurring between members of an affiliated group, as defined in division (B)(3)(e) of this section, are not sales.

(4) All transactions by which printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter are or are to be furnished or transferred;

(5) The production or fabrication of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production of fabrication work; and include the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. Except as provided in section 5739.03 of the Revised Code, a construction contract pursuant to which tangible personal property is or is to be incorporated into a structure or improvement on and becoming a part of real property is not a sale of such tangible personal property. The construction contractor is the consumer of such tangible personal property, provided that the sale and installation of carpeting, the sale and installation of agricultural land tile, the sale and erection or installation of portable grain bins, or the provision of landscaping and lawn care service and the transfer of property as part of such service is never a construction contract.

As used in division (B)(5) of this section:

(a) "Agricultural land tile" means fired clay or concrete tile, or flexible or rigid perforated plastic pipe or tubing, incorporated or to be incorporated into a subsurface drainage system appurtenant to land used or to be used primarily in production by farming, agriculture, horticulture, or floriculture. The term does not include such materials when they are or are to be incorporated into a drainage system appurtenant to a building or structure even if the building or structure is used or to be used in such production.

(b) "Portable grain bin" means a structure that is used or to be used by a person engaged in farming or agriculture to shelter the person's grain and that is designed to be disassembled without significant damage to its component parts.

(6) All transactions in which all of the shares of stock of a closely held corporation are transferred, or an ownership interest in a pass-through entity, as defined in section 5733.04 of the Revised Code, is transferred, if the corporation or pass-through entity is not engaging in business and its entire assets consist of boats, planes, motor vehicles, or other tangible personal property operated primarily for the use and enjoyment of the shareholders or owners;

(7) All transactions in which a warranty, maintenance or service contract, or similar agreement by which the vendor of the warranty, contract, or agreement agrees to repair or maintain the tangible personal property of the consumer is or is to be provided;

(8) The transfer of copyrighted motion picture films used solely for advertising purposes, except that the transfer of such films for exhibition purposes is not a sale;

(9) On and after August 1, 2003, all transactions by which tangible personal property is or is to be stored, except such property that the consumer of the storage holds for sale in the regular course of business;

(10) All transactions in which "guaranteed auto protection" is provided whereby a person promises to pay to the consumer the difference between the amount the consumer receives from motor vehicle insurance and the amount the consumer owes to a person holding title to or a lien on

the consumer's motor vehicle in the event the consumer's motor vehicle suffers a total loss under the terms of the motor vehicle insurance policy or is stolen and not recovered, if the protection and its price are included in the purchase or lease agreement;

(11)(a) Except as provided in division (B)(11)(b) of this section, on and after October 1, 2009, all transactions by which health care services are paid for, reimbursed, provided, delivered, arranged for, or otherwise made available by a medicaid health insuring corporation pursuant to the corporation's contract with the state.

(b) If the centers for medicare and medicaid services of the United States department of health and human services determines that the taxation of transactions described in division (B)(11)(a) of this section constitutes an impermissible health care-related tax under the "Social Security Act," section 1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, the medicaid director shall notify the tax commissioner of that determination. Beginning with the first day of the month following that notification, the transactions described in division (B)(11)(a) of this section are not sales for the purposes of this chapter or Chapter 5741. of the Revised Code. The tax commissioner shall order that the collection of taxes under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code shall cease for transactions occurring on or after that date.

(12) All transactions by which a specified digital product is provided for permanent use or less than permanent use, regardless of whether continued payment is required.

Except as provided in this section, "sale" and "selling" do not include transfers of interest in leased property where the original lessee and the terms of the original lease agreement remain unchanged, or professional, insurance, or personal service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made.

(C) "Vendor" means the person providing the service or by whom the transfer effected or license given by a sale is or is to be made or given and, for sales described in division (B)(3)(i) of this section, the telecommunications service vendor that provides the nine hundred telephone service; if two or more persons are engaged in business at the same place of business under a single trade name in which all collections on account of sales by each are made, such persons shall constitute a single vendor.

Physicians, dentists, hospitals, and veterinarians who are engaged in selling tangible personal property as received from others, such as eyeglasses, mouthwashes, dentifrices, or similar articles, are vendors. Veterinarians who are engaged in transferring to others for a consideration drugs, the dispensing of which does not require an order of a licensed veterinarian or physician under federal law, are vendors.

(D)(1) "Consumer" means the person for whom the service is provided, to whom the transfer effected or license given by a sale is or is to be made or given, to whom the service described in division (B)(3)(f) or (i) of this section is charged, or to whom the admission is granted.

(2) Physicians, dentists, hospitals, and blood banks operated by nonprofit institutions and persons licensed to practice veterinary medicine, surgery, and dentistry are consumers of all tangible personal property and services purchased by them in connection with the practice of medicine, dentistry, the rendition of hospital or blood bank service, or the practice of veterinary medicine, surgery, and dentistry. In addition to being consumers of drugs administered by them or by their

assistants according to their direction, veterinarians also are consumers of drugs that under federal law may be dispensed only by or upon the order of a licensed veterinarian or physician, when transferred by them to others for a consideration to provide treatment to animals as directed by the veterinarian.

(3) A person who performs a facility management, or similar service contract for a contractee is a consumer of all tangible personal property and services purchased for use in connection with the performance of such contract, regardless of whether title to any such property vests in the contractee. The purchase of such property and services is not subject to the exception for resale under division (E) of this section.

(4)(a) In the case of a person who purchases printed matter for the purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of that printed matter, and the purchase of that printed matter for that purpose is a sale.

(b) In the case of a person who produces, rather than purchases, printed matter for the purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of all tangible personal property and services purchased for use or consumption in the production of that printed matter. That person is not entitled to claim exemption under division (B)(42)(f) of section 5739.02 of the Revised Code for any material incorporated into the printed matter or any equipment, supplies, or services primarily used to produce the printed matter.

(c) The distribution of printed matter to the public or to a designated segment of the public, free of charge, is not a sale to the members of the public to whom the printed matter is distributed or to any persons who purchase space in the printed matter for advertising or other purposes.

(5) A person who makes sales of any of the services listed in division (B)(3) of this section is the consumer of any tangible personal property used in performing the service. The purchase of that property is not subject to the resale exception under division (E) of this section.

(6) A person who engages in highway transportation for hire is the consumer of all packaging materials purchased by that person and used in performing the service, except for packaging materials sold by such person in a transaction separate from the service.

(7) In the case of a transaction for health care services under division (B)(11) of this section, a medicaid health insuring corporation is the consumer of such services. The purchase of such services by a medicaid health insuring corporation is not subject to the exception for resale under division (E) of this section or to the exemptions provided under divisions (B)(12), (18), (19), and (22) of section 5739.02 of the Revised Code.

(E) "Retail sale" and "sales at retail" include all sales, except those in which the purpose of the consumer is to resell the thing transferred or benefit of the service provided, by a person engaging in business, in the form in which the same is, or is to be, received by the person.

(F) "Business" includes any activity engaged in by any person with the object of gain, benefit, or advantage, either direct or indirect. "Business" does not include the activity of a person in managing and investing the person's own funds.

(G) "Engaging in business" means commencing, conducting, or continuing in business, and liquidating a business when the liquidator thereof holds itself out to the public as conducting such



business. Making a casual sale is not engaging in business.

(H)(1)(a) "Price," except as provided in divisions (H)(2), (3), and (4) of this section, means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:

- (i) The vendor's cost of the property sold;
- (ii) The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the vendor, all taxes imposed on the vendor, including the tax imposed under Chapter 5751. of the Revised Code, and any other expense of the vendor;
- (iii) Charges by the vendor for any services necessary to complete the sale;
- (iv) On and after August 1, 2003, delivery charges. As used in this division, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing.
- (v) Installation charges;
- (vi) Credit for any trade-in.

(b) "Price" includes consideration received by the vendor from a third party, if the vendor actually receives the consideration from a party other than the consumer, and the consideration is directly related to a price reduction or discount on the sale; the vendor has an obligation to pass the price reduction or discount through to the consumer; the amount of the consideration attributable to the sale is fixed and determinable by the vendor at the time of the sale of the item to the consumer; and one of the following criteria is met:

- (i) The consumer presents a coupon, certificate, or other document to the vendor to claim a price reduction or discount where the coupon, certificate, or document is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any vendor to whom the coupon, certificate, or document is presented;
- (ii) The consumer identifies the consumer's self to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group or organization.
- (iii) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the consumer, or on a coupon, certificate, or other document presented by the consumer.

(c) "Price" does not include any of the following:

- (i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a vendor and taken by a consumer on a sale;
- (ii) Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;
- (iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer. For the purpose of this division, the tax imposed under Chapter 5751. of the Revised Code is not a tax directly on the consumer, even if the tax or a portion thereof is separately stated.

(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this section, any discount allowed by an automobile manufacturer to its employee, or to the employee of a supplier, on the purchase of a new motor vehicle from a new motor vehicle dealer in this state.

(v) The dollar value of a gift card that is not sold by a vendor or purchased by a consumer and that is redeemed by the consumer in purchasing tangible personal property or services if the vendor is not reimbursed and does not receive compensation from a third party to cover all or part of the gift card value. For the purposes of this division, a gift card is not sold by a vendor or purchased by a consumer if it is distributed pursuant to an awards, loyalty, or promotional program. Past and present purchases of tangible personal property or services by the consumer shall not be treated as consideration exchanged for a gift card.

(2) In the case of a sale of any new motor vehicle by a new motor vehicle dealer, as defined in section 4517.01 of the Revised Code, in which another motor vehicle is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the motor vehicle received in trade.

(3) In the case of a sale of any watercraft or outboard motor by a watercraft dealer licensed in accordance with section 1547.543 of the Revised Code, in which another watercraft, watercraft and trailer, or outboard motor is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the watercraft, watercraft and trailer, or outboard motor received in trade. As used in this division, "watercraft" includes an outdrive unit attached to the watercraft.

(4) In the case of transactions for health care services under division (B)(11) of this section, "price" means the amount of managed care premiums received each month by a medicaid health insuring corporation.

(I) "Receipts" means the total amount of the prices of the sales of vendors, provided that the dollar value of gift cards distributed pursuant to an awards, loyalty, or promotional program, and cash discounts allowed and taken on sales at the time they are consummated are not included, minus any amount deducted as a bad debt pursuant to section 5739.121 of the Revised Code. "Receipts" does not include the sale price of property returned or services rejected by consumers when the full sale price and tax are refunded either in cash or by credit.

(J) "Place of business" means any location at which a person engages in business.

(K) "Premises" includes any real property or portion thereof upon which any person engages in selling tangible personal property at retail or making retail sales and also includes any real property or portion thereof designated for, or devoted to, use in conjunction with the business engaged in by such person.

(L) "Casual sale" means a sale of an item of tangible personal property that was obtained by the person making the sale, through purchase or otherwise, for the person's own use and was previously subject to any state's taxing jurisdiction on its sale or use, and includes such items acquired for the seller's use that are sold by an auctioneer employed directly by the person for such purpose, provided the location of such sales is not the auctioneer's permanent place of business. As used in this division, "permanent place of business" includes any location where such auctioneer has conducted more than two auctions during the year.

(M) "Hotel" means every establishment kept, used, maintained, advertised, or held out to the

public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether the rooms are in one or several structures, except as otherwise provided in division (G) of section 5739.09 of the Revised Code.

(N) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.

(O) "Making retail sales" means the effecting of transactions wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold. "Making retail sales" does not include the preliminary acts of promoting or soliciting the retail sales, other than the distribution of printed matter which displays or describes and prices the item offered for sale, nor does it include delivery of a predetermined quantity of tangible personal property or transportation of property or personnel to or from a place where a service is performed.

(P) "Used directly in the rendition of a public utility service" means that property that is to be incorporated into and will become a part of the consumer's production, transmission, transportation, or distribution system and that retains its classification as tangible personal property after such incorporation; fuel or power used in the production, transmission, transportation, or distribution system; and tangible personal property used in the repair and maintenance of the production, transmission, transportation, or distribution system, including only such motor vehicles as are specially designed and equipped for such use. Tangible personal property and services used primarily in providing highway transportation for hire are not used directly in the rendition of a public utility service. In this definition, "public utility" includes a citizen of the United States holding, and required to hold, a certificate of public convenience and necessity issued under 49 U.S.C. 41102.

(Q) "Refining" means removing or separating a desirable product from raw or contaminated materials by distillation or physical, mechanical, or chemical processes.

(R) "Assembly" and "assembling" mean attaching or fitting together parts to form a product, but do not include packaging a product.

(S) "Manufacturing operation" means a process in which materials are changed, converted, or transformed into a different state or form from which they previously existed and includes refining materials, assembling parts, and preparing raw materials and parts by mixing, measuring, blending, or otherwise committing such materials or parts to the manufacturing process. "Manufacturing operation" does not include packaging.

(T) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county that is a transit authority, the fiscal officer of the county transit board if one is appointed pursuant to section 306.03 of the Revised Code or the county auditor if the board of county commissioners operates the county transit system.

(U) "Transit authority" means a regional transit authority created pursuant to section 306.31 of the Revised Code or a county in which a county transit system is created pursuant to section 306.01 of the Revised Code. For the purposes of this chapter, a transit authority must extend to at least the entire area of a single county. A transit authority that includes territory in more than one county must include all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(V) "Legislative authority" means, with respect to a regional transit authority, the board of trustees thereof, and with respect to a county that is a transit authority, the board of county commissioners.

(W) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(X) "Providing a service" means providing or furnishing anything described in division (B) (3) of this section for consideration.

(Y)(1)(a) "Automatic data processing" means processing of others' data, including keypunching or similar data entry services together with verification thereof, or providing access to computer equipment for the purpose of processing data.

(b) "Computer services" means providing services consisting of specifying computer hardware configurations and evaluating technical processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems.

(c) "Electronic information services" means providing access to computer equipment by means of telecommunications equipment for the purpose of either of the following:

- (i) Examining or acquiring data stored in or accessible to the computer equipment;
- (ii) Placing data into the computer equipment to be retrieved by designated recipients with access to the computer equipment.

For transactions occurring on or after the effective date of the amendment of this section by H.B. 157 of the 127th general assembly, December 21, 2007, "electronic information services" does not include electronic publishing as defined in division (LLL) of this section.

(d) "Automatic data processing, computer services, or electronic information services" shall not include personal or professional services.

(2) As used in divisions (B)(3)(e) and (Y)(1) of this section, "personal and professional services" means all services other than automatic data processing, computer services, or electronic information services, including but not limited to:

(a) Accounting and legal services such as advice on tax matters, asset management, budgetary matters, quality control, information security, and auditing and any other situation where the service provider receives data or information and studies, alters, analyzes, interprets, or adjusts such material;

(b) Analyzing business policies and procedures;

(c) Identifying management information needs;

(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;

(e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management;

(f) Developing policies and procedures that document how business events and transactions

are to be authorized, executed, and controlled;

(g) Testing of business procedures;

(h) Training personnel in business procedure applications;

(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;

(j) Providing debt collection services by any oral, written, graphic, or electronic means;

(k) Providing digital advertising services.

The services listed in divisions (Y)(2)(a) to (k) of this section are not automatic data processing or computer services.

(Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following:

(1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare;

(2) A person who engages in the transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare but who could not have engaged in such transportation on December 11, 1985, unless the person was the holder of a permit or certificate of the types described in division (Z)(1) of this section;

(3) A person who leases a motor vehicle to and operates it for a person described by division (Z)(1) or (2) of this section.

(AA)(1) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. "Telecommunications service" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether the service is referred to as voice-over internet protocol service or is classified by the federal communications commission as enhanced or value-added. "Telecommunications service" does not include any of the following:

(a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a consumer where the consumer's primary purpose for the underlying transaction is the processed data or information;

(b) Installation or maintenance of wiring or equipment on a customer's premises;

(c) Tangible personal property;

(d) Advertising, including directory advertising;

(e) Billing and collection services provided to third parties;

(f) Internet access service;

(g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service, as defined in 47 U.S.C. 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47

C.F.R. 20.3;

(h) Ancillary service;

(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.

(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:

(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge.

(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(c) "Directory assistance" means an ancillary service of providing telephone number or address information.

(d) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and manage multiple calls and call connections, including conference bridging service.

(e) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. "Voice mail service" does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

(3) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service, and which is typically marketed under the name "900 service" and any subsequent numbers designated by the federal communications commission. "900 service" does not include the charge for collection services provided by the seller of the telecommunications service to the subscriber, or services or products sold by the subscriber to the subscriber's customer.

(4) "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(5) "Prepaid wireless calling service" means a telecommunications service that provides the right to utilize mobile telecommunications service as well as other non-telecommunications services, including the download of digital products delivered electronically, and content and ancillary services, that must be paid for in advance and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(6) "Value-added non-voice data service" means a telecommunications service in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance, or routing.

(7) "Coin-operated telephone service" means a telecommunications service paid for by inserting money into a telephone accepting direct deposits of money to operate.

(8) "Customer" has the same meaning as in section 5739.034 of the Revised Code.

(BB) "Laundry and dry cleaning services" means removing soil or dirt from towels, linens, articles of clothing, or other fabric items that belong to others and supplying towels, linens, articles of clothing, or other fabric items. "Laundry and dry cleaning services" does not include the provision of self-service facilities for use by consumers to remove soil or dirt from towels, linens, articles of clothing, or other fabric items.

(CC) "Magazines distributed as controlled circulation publications" means magazines containing at least twenty-four pages, at least twenty-five per cent editorial content, issued at regular intervals four or more times a year, and circulated without charge to the recipient, provided that such magazines are not owned or controlled by individuals or business concerns which conduct such publications as an auxiliary to, and essentially for the advancement of the main business or calling of, those who own or control them.

(DD) "Landscaping and lawn care service" means the services of planting, seeding, sodding, removing, cutting, trimming, pruning, mulching, aerating, applying chemicals, watering, fertilizing, and providing similar services to establish, promote, or control the growth of trees, shrubs, flowers, grass, ground cover, and other flora, or otherwise maintaining a lawn or landscape grown or maintained by the owner for ornamentation or other nonagricultural purpose. However, "landscaping and lawn care service" does not include the providing of such services by a person who has less than five thousand dollars in sales of such services during the calendar year.

(EE) "Private investigation and security service" means the performance of any activity for which the provider of such service is required to be licensed pursuant to Chapter 4749. of the Revised Code, or would be required to be so licensed in performing such services in this state, and also includes the services of conducting polygraph examinations and of monitoring or overseeing the activities on or in, or the condition of, the consumer's home, business, or other facility by means of electronic or similar monitoring devices. "Private investigation and security service" does not include special duty services provided by off-duty police officers, deputy sheriffs, and other peace officers regularly employed by the state or a political subdivision.

(FF) "Information services" means providing conversation, giving consultation or advice, playing or making a voice or other recording, making or keeping a record of the number of callers, and any other service provided to a consumer by means of a nine hundred telephone call, except when the nine hundred telephone call is the means by which the consumer makes a contribution to a recognized charity.

(GG) "Research and development" means designing, creating, or formulating new or enhanced products, equipment, or manufacturing processes, and also means conducting scientific or technological inquiry and experimentation in the physical sciences with the goal of increasing scientific knowledge which may reveal the bases for new or enhanced products, equipment, or manufacturing processes.

(HH) "Qualified research and development equipment" means capitalized tangible personal property, and leased personal property that would be capitalized if purchased, used by a person primarily to perform research and development. Tangible personal property primarily used in testing, as defined in division (A)(4) of section 5739.011 of the Revised Code, or used for recording or storing test results, is not qualified research and development equipment unless such property is

primarily used by the consumer in testing the product, equipment, or manufacturing process being created, designed, or formulated by the consumer in the research and development activity or in recording or storing such test results.

(II) "Building maintenance and janitorial service" means cleaning the interior or exterior of a building and any tangible personal property located therein or thereon, including any services incidental to such cleaning for which no separate charge is made. However, "building maintenance and janitorial service" does not include the providing of such service by a person who has less than five thousand dollars in sales of such service during the calendar year. As used in this division, "cleaning" does not include sanitation services necessary for an establishment described in 21 U.S.C. 608 to comply with rules and regulations adopted pursuant to that section.

(JJ) "Employment service" means providing or supplying personnel, on a temporary or long-term basis, to perform work or labor under the supervision or control of another, when the personnel so provided or supplied receive their wages, salary, or other compensation from the provider or supplier of the employment service or from a third party that provided or supplied the personnel to the provider or supplier. "Employment service" does not include:

(1) Acting as a contractor or subcontractor, where the personnel performing the work are not under the direct control of the purchaser.

(2) Medical and health care services.

(3) Supplying personnel to a purchaser pursuant to a contract of at least one year between the service provider and the purchaser that specifies that each employee covered under the contract is assigned to the purchaser on a permanent basis.

(4) Transactions between members of an affiliated group, as defined in division (B)(3)(e) of this section.

(5) Transactions where the personnel so provided or supplied by a provider or supplier to a purchaser of an employment service are then provided or supplied by that purchaser to a third party as an employment service, except "employment service" does include the transaction between that purchaser and the third party.

(KK) "Employment placement service" means locating or finding employment for a person or finding or locating an employee to fill an available position.

(LL) "Exterminating service" means eradicating or attempting to eradicate vermin infestations from a building or structure, or the area surrounding a building or structure, and includes activities to inspect, detect, or prevent vermin infestation of a building or structure.

(MM) "Physical fitness facility service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a physical fitness facility such as an athletic club, health spa, or gymnasium, which entitles the member to use the facility for physical exercise.

(NN) "Recreation and sports club service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a recreation and sports club, which entitles the member to use the facilities of the organization. "Recreation and sports club" means an organization that has ownership of, or controls or leases on a continuing, long-term basis, the facilities used by its members and includes an aviation club, gun or shooting club, yacht club, card club, swimming club,



tennis club, golf club, country club, riding club, amateur sports club, or similar organization.

(OO) "Livestock" means farm animals commonly raised for food, food production, or other agricultural purposes, including, but not limited to, cattle, sheep, goats, swine, poultry, and captive deer. "Livestock" does not include invertebrates, amphibians, reptiles, domestic pets, animals for use in laboratories or for exhibition, or other animals not commonly raised for food or food production.

(PP) "Livestock structure" means a building or structure used exclusively for the housing, raising, feeding, or sheltering of livestock, and includes feed storage or handling structures and structures for livestock waste handling.

(QQ) "Horticulture" means the growing, cultivation, and production of flowers, fruits, herbs, vegetables, sod, mushrooms, and nursery stock. As used in this division, "nursery stock" has the same meaning as in section 927.51 of the Revised Code.

(RR) "Horticulture structure" means a building or structure used exclusively for the commercial growing, raising, or overwintering of horticultural products, and includes the area used for stocking, storing, and packing horticultural products when done in conjunction with the production of those products.

(SS) "Newspaper" means an unbound publication bearing a title or name that is regularly published, at least as frequently as biweekly, and distributed from a fixed place of business to the public in a specific geographic area, and that contains a substantial amount of news matter of international, national, or local events of interest to the general public.

(TT) "Professional racing team" means a person that employs at least twenty full-time employees for the purpose of conducting a motor vehicle racing business for profit. The person must conduct the business with the purpose of racing one or more motor racing vehicles in at least ten competitive professional racing events each year that comprise all or part of a motor racing series sanctioned by one or more motor racing sanctioning organizations. A "motor racing vehicle" means a vehicle for which the chassis, engine, and parts are designed exclusively for motor racing, and does not include a stock or production model vehicle that may be modified for use in racing. For the purposes of this division:

(1) A "competitive professional racing event" is a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations, at which aggregate cash prizes in excess of eight hundred thousand dollars are awarded to the competitors.

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

(UU)(1) "Lease" or "rental" means any transfer of the possession or control of tangible personal property for a fixed or indefinite term, for consideration. "Lease" or "rental" includes future options to purchase or extend, and agreements described in 26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon the sale or disposition of the property. "Lease" or "rental" does not include:

(a) A transfer of possession or control of tangible personal property under a security agreement or a deferred payment plan that requires the transfer of title upon completion of the required payments;

(b) A transfer of possession or control of tangible personal property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars or one per cent of the total required payments;

(c) Providing tangible personal property along with an operator for a fixed or indefinite period of time, if the operator is necessary for the property to perform as designed. For purposes of this division, the operator must do more than maintain, inspect, or set up the tangible personal property.

(2) "Lease" and "rental," as defined in division (UU) of this section, shall not apply to leases or rentals that exist before June 26, 2003.

(3) "Lease" and "rental" have the same meaning as in division (UU)(1) of this section regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, Title XIII of the Revised Code, or other federal, state, or local laws.

(VV) "Mobile telecommunications service" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, on and after August 1, 2003, includes related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail service, and vertical services, such as caller ID and three-way calling.

(WW) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code.

(XX) "Satellite broadcasting service" means the distribution or broadcasting of programming or services by satellite directly to the subscriber's receiving equipment without the use of ground receiving or distribution equipment, except the subscriber's receiving equipment or equipment used in the uplink process to the satellite, and includes all service and rental charges, premium channels or other special services, installation and repair service charges, and any other charges having any connection with the provision of the satellite broadcasting service.

(YY) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. For purposes of this chapter and Chapter 5741. of the Revised Code, "tangible personal property" includes motor vehicles, electricity, water, gas, steam, and prewritten computer software.

(ZZ) "Municipal gas utility" means a municipal corporation that owns or operates a system for the distribution of natural gas.

(AAA) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

(BBB) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(CCC) "Delivered electronically" means delivery of computer software from the seller to the purchaser by means other than tangible storage media.

(DDD) "Prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer

software. "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. If a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement shall not constitute prewritten computer software.

(EEE)(1) "Food" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food" does not include alcoholic beverages, dietary supplements, soft drinks, or tobacco.

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

(a) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one per cent or more of alcohol by volume.

(b) "Dietary supplements" means any product, other than tobacco, that is intended to supplement the diet and that is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or, if not intended for ingestion in such a form, is not represented as conventional food for use as a sole item of a meal or of the diet; that is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label, as required by 21 C.F.R. 101.36; and that contains one or more of the following dietary ingredients:

(i) A vitamin;

(ii) A mineral;

(iii) An herb or other botanical;

(iv) An amino acid;

(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;

(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE)(2)(b)(i) to (v) of this section.

(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume.

(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

(FFF) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or is intended to affect the structure or any function of the body.

(GGG) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to issue a prescription.

(HHH) "Durable medical equipment" means equipment, including repair and replacement parts for such equipment, that can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, and is not worn in or on the body. "Durable medical equipment" does not include mobility enhancing equipment.

(III) "Mobility enhancing equipment" means equipment, including repair and replacement parts for such equipment, that is primarily and customarily used to provide or increase the ability to move from one place to another and is appropriate for use either in a home or a motor vehicle, that is not generally used by persons with normal mobility, and that does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer. "Mobility enhancing equipment" does not include durable medical equipment.

(JJJ) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the human body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction, or support a weak or deformed portion of the body. As used in this division, before July 1, 2019, "prosthetic device" does not include corrective eyeglasses, contact lenses, or dental prosthesis. On or after July 1, 2019, "prosthetic device" does not include dental prosthesis but does include corrective eyeglasses or contact lenses.

(KKK)(1) "Fractional aircraft ownership program" means a program in which persons within an affiliated group sell and manage fractional ownership program aircraft, provided that at least one hundred airworthy aircraft are operated in the program and the program meets all of the following criteria:

(a) Management services are provided by at least one program manager within an affiliated group on behalf of the fractional owners.

(b) Each program aircraft is owned or possessed by at least one fractional owner.

(c) Each fractional owner owns or possesses at least a one-sixteenth interest in at least one fixed-wing program aircraft.

(d) A dry-lease aircraft interchange arrangement is in effect among all of the fractional owners.

(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program.

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

(a) "Affiliated group" has the same meaning as in division (B)(3)(e) of this section.

(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (KKK)(1)(e) of this section.

(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK)(1)(d) and (e) of this section, or an

aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program.

(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK)(1)(e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program.

(e) "Program manager" means the person that offers management services to fractional owners pursuant to a management services agreement under division (KKK)(1)(e) of this section.

(LLL) "Electronic publishing" means providing access to one or more of the following primarily for business customers, including the federal government or a state government or a political subdivision thereof, to conduct research: news; business, financial, legal, consumer, or credit materials; editorials, columns, reader commentary, or features; photos or images; archival or research material; legal notices, identity verification, or public records; scientific, educational, instructional, technical, professional, trade, or other literary materials; or other similar information which has been gathered and made available by the provider to the consumer in an electronic format. Providing electronic publishing includes the functions necessary for the acquisition, formatting, editing, storage, and dissemination of data or information that is the subject of a sale.

(MMM) "Medicaid health insuring corporation" means a health insuring corporation that holds a certificate of authority under Chapter 1751. of the Revised Code and is under contract with the department of medicaid pursuant to section 5167.10 of the Revised Code.

(NNN) "Managed care premium" means any premium, capitation, or other payment a medicaid health insuring corporation receives for providing or arranging for the provision of health care services to its members or enrollees residing in this state.

(OOO) "Captive deer" means deer and other cervidae that have been legally acquired, or their offspring, that are privately owned for agricultural or farming purposes.

(PPP) "Gift card" means a document, card, certificate, or other record, whether tangible or intangible, that may be redeemed by a consumer for a dollar value when making a purchase of tangible personal property or services.

(QQQ) "Specified digital product" means an electronically transferred digital audiovisual work, digital audio work, or digital book.

As used in division (QQQ) of this section:

(1) "Digital audiovisual work" means a series of related images that, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

(2) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds, including digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.

(3) "Digital book" means a work that is generally recognized in the ordinary and usual sense

as a book.

(4) "Electronically transferred" means obtained by the purchaser by means other than tangible storage media.

(RRR) "Digital advertising services" means providing access, by means of telecommunications equipment, to computer equipment that is used to enter, upload, download, review, manipulate, store, add, or delete data for the purpose of electronically displaying, delivering, placing, or transferring promotional advertisements to potential customers about products or services or about industry or business brands.

**Sec. 5739.02.** For the purpose of providing revenue with which to meet the needs of the state, for the use of the general revenue fund of the state, for the purpose of securing a thorough and efficient system of common schools throughout the state, for the purpose of affording revenues, in addition to those from general property taxes, permitted under constitutional limitations, and from other sources, for the support of local governmental functions, and for the purpose of reimbursing the state for the expense of administering this chapter, an excise tax is hereby levied on each retail sale made in this state.

(A)(1) The tax shall be collected as provided in section 5739.025 of the Revised Code. The rate of the tax shall be five and three-fourths per cent. The tax applies and is collectible when the sale is made, regardless of the time when the price is paid or delivered.

(2) In the case of the lease or rental, with a fixed term of more than thirty days or an indefinite term with a minimum period of more than thirty days, of any motor vehicles designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee or renter primarily for business purposes, the tax shall be collected by the vendor at the time the lease or rental is consummated and shall be calculated by the vendor on the basis of the total amount to be paid by the lessee or renter under the lease agreement. If the total amount of the consideration for the lease or rental includes amounts that are not calculated at the time the lease or rental is executed, the tax shall be calculated and collected by the vendor at the time such amounts are billed to the lessee or renter. In the case of an open-end lease or rental, the tax shall be calculated by the vendor on the basis of the total amount to be paid during the initial fixed term of the lease or rental, and for each subsequent renewal period as it comes due. As used in this division, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code, and "watercraft" includes an outdrive unit attached to the watercraft.

A lease with a renewal clause and a termination penalty or similar provision that applies if the renewal clause is not exercised is presumed to be a sham transaction. In such a case, the tax shall be calculated and paid on the basis of the entire length of the lease period, including any renewal periods, until the termination penalty or similar provision no longer applies. The taxpayer shall bear the burden, by a preponderance of the evidence, that the transaction or series of transactions is not a sham transaction.

(3) Except as provided in division (A)(2) of this section, in the case of a sale, the price of which consists in whole or in part of the lease or rental of tangible personal property, the tax shall be measured by the installments of that lease or rental.

(4) In the case of a sale of a physical fitness facility service or recreation and sports club

service, the price of which consists in whole or in part of a membership for the receipt of the benefit of the service, the tax applicable to the sale shall be measured by the installments thereof.

(B) The tax does not apply to the following:

(1) Sales to the state or any of its political subdivisions, or to any other state or its political subdivisions if the laws of that state exempt from taxation sales made to this state and its political subdivisions;

(2) Sales of food for human consumption off the premises where sold;

(3) Sales of food sold to students only in a cafeteria, dormitory, fraternity, or sorority maintained in a private, public, or parochial school, college, or university;

(4) Sales of newspapers and sales or transfers of magazines distributed as controlled circulation publications;

(5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;

(6) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state;

(7) Sales of natural gas by a natural gas company or municipal gas utility, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through pipes or conduits, and all sales of communications services by a telegraph company, all terms as defined in section 5727.01 of the Revised Code, and sales of electricity delivered through wires;

(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of the Revised Code, watercraft documented with the United States coast guard, snowmobiles, and all-purpose vehicles as defined in section 4519.01 of the Revised Code;

(9)(a) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or services, other than items never subject to the tax, are sold does not exceed six in any calendar year, except as otherwise provided in division (B)(9)(b) of this section. If the number of days on which such sales are made exceeds six in any calendar year, the church or organization shall be considered to be engaged in business and all subsequent sales by it shall be subject to the tax. In counting the number of days, all sales by groups within a church or within an organization shall be considered to be sales of that church or organization.

(b) The limitation on the number of days on which tax-exempt sales may be made by a church or organization under division (B)(9)(a) of this section does not apply to sales made by

student clubs and other groups of students of a primary or secondary school, or a parent-teacher association, booster group, or similar organization that raises money to support or fund curricular or extracurricular activities of a primary or secondary school.

(c) Divisions (B)(9)(a) and (b) of this section do not apply to sales by a noncommercial educational radio or television broadcasting station.

(10) Sales not within the taxing power of this state under the Constitution or laws of the United States or the Constitution of this state;

(11) Except for transactions that are sales under division (B)(3)(r) of section 5739.01 of the Revised Code, the transportation of persons or property, unless the transportation is by a private investigation and security service;

(12) Sales of tangible personal property or services to churches, to organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, and to any other nonprofit organizations operated exclusively for charitable purposes in this state, no part of the net income of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation; sales to offices administering one or more homes for the aged or one or more hospital facilities exempt under section 140.08 of the Revised Code; and sales to organizations described in division (D) of section 5709.12 of the Revised Code.

"Charitable purposes" means the relief of poverty; the improvement of health through the alleviation of illness, disease, or injury; the operation of an organization exclusively for the provision of professional, laundry, printing, and purchasing services to hospitals or charitable institutions; the operation of a home for the aged, as defined in section 5701.13 of the Revised Code; the operation of a radio or television broadcasting station that is licensed by the federal communications commission as a noncommercial educational radio or television station; the operation of a nonprofit animal adoption service or a county humane society; the promotion of education by an institution of learning that maintains a faculty of qualified instructors, teaches regular continuous courses of study, and confers a recognized diploma upon completion of a specific curriculum; the operation of a parent-teacher association, booster group, or similar organization primarily engaged in the promotion and support of the curricular or extracurricular activities of a primary or secondary school; the operation of a community or area center in which presentations in music, dramatics, the arts, and related fields are made in order to foster public interest and education therein; the production of performances in music, dramatics, and the arts; or the promotion of education by an organization engaged in carrying on research in, or the dissemination of, scientific and technological knowledge and information primarily for the public.

Nothing in this division shall be deemed to exempt sales to any organization for use in the operation or carrying on of a trade or business, or sales to a home for the aged for use in the operation of independent living facilities as defined in division (A) of section 5709.12 of the Revised Code.

(13) Building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property under a construction contract with this state or a political subdivision of this state, or with the United States government or any of its agencies; building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property that are accepted for ownership by this



state or any of its political subdivisions, or by the United States government or any of its agencies at the time of completion of the structures or improvements; building and construction materials sold to construction contractors for incorporation into a horticulture structure or livestock structure for a person engaged in the business of horticulture or producing livestock; building materials and services sold to a construction contractor for incorporation into a house of public worship or religious education, or a building used exclusively for charitable purposes under a construction contract with an organization whose purpose is as described in division (B)(12) of this section; building materials and services sold to a construction contractor for incorporation into a building under a construction contract with an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 when the building is to be used exclusively for the organization's exempt purposes; building and construction materials sold for incorporation into the original construction of a sports facility under section 307.696 of the Revised Code; building and construction materials and services sold to a construction contractor for incorporation into real property outside this state if such materials and services, when sold to a construction contractor in the state in which the real property is located for incorporation into real property in that state, would be exempt from a tax on sales levied by that state; building and construction materials for incorporation into a transportation facility pursuant to a public-private agreement entered into under sections 5501.70 to 5501.83 of the Revised Code; and, until one calendar year after the construction of a convention center that qualifies for property tax exemption under section 5709.084 of the Revised Code is completed, building and construction materials and services sold to a construction contractor for incorporation into the real property comprising that convention center;

(14) Sales of ships or vessels or rail rolling stock used or to be used principally in interstate or foreign commerce, and repairs, alterations, fuel, and lubricants for such ships or vessels or rail rolling stock;

(15) Sales to persons primarily engaged in any of the activities mentioned in division (B)(42) (a), (g), or (h) of this section, to persons engaged in making retail sales, or to persons who purchase for sale from a manufacturer tangible personal property that was produced by the manufacturer in accordance with specific designs provided by the purchaser, of packages, including material, labels, and parts for packages, and of machinery, equipment, and material for use primarily in packaging tangible personal property produced for sale, including any machinery, equipment, and supplies used to make labels or packages, to prepare packages or products for labeling, or to label packages or products, by or on the order of the person doing the packaging, or sold at retail. "Packages" includes bags, baskets, cartons, crates, boxes, cans, bottles, bindings, wrappings, and other similar devices and containers, but does not include motor vehicles or bulk tanks, trailers, or similar devices attached to motor vehicles. "Packaging" means placing in a package. Division (B)(15) of this section does not apply to persons engaged in highway transportation for hire.

(16) Sales of food to persons using supplemental nutrition assistance program benefits to purchase the food. As used in this division, "food" has the same meaning as in 7 U.S.C. 2012 and federal regulations adopted pursuant to the Food and Nutrition Act of 2008.

(17) Sales to persons engaged in farming, agriculture, horticulture, or floriculture, of tangible personal property for use or consumption primarily in the production by farming, agriculture, horticulture, or floriculture of other tangible personal property for use or consumption primarily in

the production of tangible personal property for sale by farming, agriculture, horticulture, or floriculture; or material and parts for incorporation into any such tangible personal property for use or consumption in production; and of tangible personal property for such use or consumption in the conditioning or holding of products produced by and for such use, consumption, or sale by persons engaged in farming, agriculture, horticulture, or floriculture, except where such property is incorporated into real property;

(18) Sales of drugs for a human being that may be dispensed only pursuant to a prescription; insulin as recognized in the official United States pharmacopoeia; urine and blood testing materials when used by diabetics or persons with hypoglycemia to test for glucose or acetone; hypodermic syringes and needles when used by diabetics for insulin injections; epoetin alfa when purchased for use in the treatment of persons with medical disease; hospital beds when purchased by hospitals, nursing homes, or other medical facilities; and medical oxygen and medical oxygen-dispensing equipment when purchased by hospitals, nursing homes, or other medical facilities;

(19) Sales of prosthetic devices, durable medical equipment for home use, or mobility enhancing equipment, when made pursuant to a prescription and when such devices or equipment are for use by a human being.

(20) Sales of emergency and fire protection vehicles and equipment to nonprofit organizations for use solely in providing fire protection and emergency services, including trauma care and emergency medical services, for political subdivisions of the state;

(21) Sales of tangible personal property manufactured in this state, if sold by the manufacturer in this state to a retailer for use in the retail business of the retailer outside of this state and if possession is taken from the manufacturer by the purchaser within this state for the sole purpose of immediately removing the same from this state in a vehicle owned by the purchaser;

(22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities;

(23) Sales of motor vehicles to nonresidents of this state under the circumstances described in division (B) of section 5739.029 of the Revised Code;

(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats, cartons, closure materials, labels, and labeling materials, and "packaging" means placing therein.

(25)(a) Sales of water to a consumer for residential use;

(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.

(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;

(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:

(a) To prepare food for human consumption for sale;

(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;

(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.

(28) Sales of animals by nonprofit animal adoption services or county humane societies;

(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;

(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;

(31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;

(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;

(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters;

(34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite broadcasting service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, one- or two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to, poles, wires, cables, switching equipment, computers, and record storage devices and media, and component parts for the tangible personal property. The exemption provided in this division shall be in lieu of all other exemptions under division (B)(42)(a) or (n) of this section to which the vendor may otherwise be entitled, based upon the use of the thing purchased in providing the telecommunications, mobile telecommunications, or satellite broadcasting service.

(35)(a) Sales where the purpose of the consumer is to use or consume the things transferred in making retail sales and consisting of newspaper inserts, catalogues, coupons, flyers, gift certificates, or other advertising material that prices and describes tangible personal property offered for retail sale.

(b) Sales to direct marketing vendors of preliminary materials such as photographs, artwork, and typesetting that will be used in printing advertising material; and of printed matter that offers free merchandise or chances to win sweepstake prizes and that is mailed to potential customers with

advertising material described in division (B)(35)(a) of this section;

(c) Sales of equipment such as telephones, computers, facsimile machines, and similar tangible personal property primarily used to accept orders for direct marketing retail sales.

(d) Sales of automatic food vending machines that preserve food with a shelf life of forty-five days or less by refrigeration and dispense it to the consumer.

For purposes of division (B)(35) of this section, "direct marketing" means the method of selling where consumers order tangible personal property by United States mail, delivery service, or telecommunication and the vendor delivers or ships the tangible personal property sold to the consumer from a warehouse, catalogue distribution center, or similar fulfillment facility by means of the United States mail, delivery service, or common carrier.

(36) Sales to a person engaged in the business of horticulture or producing livestock of materials to be incorporated into a horticulture structure or livestock structure;

(37) Sales of personal computers, computer monitors, computer keyboards, modems, and other peripheral computer equipment to an individual who is licensed or certified to teach in an elementary or a secondary school in this state for use by that individual in preparation for teaching elementary or secondary school students;

(38) Sales to a professional racing team of any of the following:

(a) Motor racing vehicles;

(b) Repair services for motor racing vehicles;

(c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication.

(39) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000;

(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; energy conversion equipment as defined in section 5727.01 of the Revised Code; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are specially designed and equipped for such use. The exemption provided in this division shall be in lieu of all other exemptions in division (B)(42)(a) or (n) of this section to which a provider of electricity may otherwise be entitled based on the use of the tangible personal property or service purchased in generating, transmitting, or distributing electricity.

(41) Sales to a person providing services under division (B)(3)(r) of section 5739.01 of the Revised Code of tangible personal property and services used directly and primarily in providing taxable services under that section.

(42) Sales where the purpose of the purchaser is to do any of the following:

(a) To incorporate the thing transferred as a material or a part into tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining; or to use or consume the thing transferred directly in producing tangible personal property for sale by mining, including, without limitation, the extraction from the earth of all substances that are classed geologically as minerals, production of crude oil and natural gas, or directly in the rendition of a public utility service, except that the sales tax levied by this section shall be collected upon all meals, drinks, and food for human consumption sold when transporting persons. Persons engaged in rendering services in the exploration for, and production of, crude oil and natural gas for others are deemed engaged directly in the exploration for, and production of, crude oil and natural gas. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.

(b) To hold the thing transferred as security for the performance of an obligation of the vendor;

(c) To resell, hold, use, or consume the thing transferred as evidence of a contract of insurance;

(d) To use or consume the thing directly in commercial fishing;

(e) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications;

(f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;

(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;

(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B)(7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;

(i) To use the thing transferred as qualified research and development equipment;

(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. This division does not apply to motor vehicles registered for operation on the public highways. As used in this division, "affiliated group" has the same meaning as in division (B)(3)(e) of section 5739.01 of the Revised Code and "direct marketing" has the same meaning as in division (B)(35) of this section.

(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B)(7) of section 5739.01 of the Revised Code;

(l) To use or consume the thing transferred in the production of a newspaper for distribution

to the public;

(m) To use tangible personal property to perform a service listed in division (B)(3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service;

(n) To use or consume the thing transferred primarily in producing tangible personal property for sale by farming, agriculture, horticulture, or floriculture. Persons engaged in rendering farming, agriculture, horticulture, or floriculture services for others are deemed engaged primarily in farming, agriculture, horticulture, or floriculture. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.

(o) To use or consume the thing transferred in acquiring, formatting, editing, storing, and disseminating data or information by electronic publishing;

(p) To provide the thing transferred to the owner or lessee of a motor vehicle that is being repaired or serviced, if the thing transferred is a rented motor vehicle and the purchaser is reimbursed for the cost of the rented motor vehicle by a manufacturer, warrantor, or provider of a maintenance, service, or other similar contract or agreement, with respect to the motor vehicle that is being repaired or serviced.

As used in division (B)(42) of this section, "thing" includes all transactions included in divisions (B)(3)(a), (b), and (e) of section 5739.01 of the Revised Code.

(43) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided as part of the transaction.

(44) Sales of replacement and modification parts for engines, airframes, instruments, and interiors in, and paint for, aircraft used primarily in a fractional aircraft ownership program, and sales of services for the repair, modification, and maintenance of such aircraft, and machinery, equipment, and supplies primarily used to provide those services.

(45) Sales of telecommunications service that is used directly and primarily to perform the functions of a call center. As used in this division, "call center" means any physical location where telephone calls are placed or received in high volume for the purpose of making sales, marketing, customer service, technical support, or other specialized business activity, and that employs at least fifty individuals that engage in call center activities on a full-time basis, or sufficient individuals to fill fifty full-time equivalent positions.

(46) Sales by a telecommunications service vendor of 900 service to a subscriber. This division does not apply to information services, as defined in division (FF) of section 5739.01 of the Revised Code.

(47) Sales of value-added non-voice data service. This division does not apply to any similar service that is not otherwise a telecommunications service.

(48)(a) Sales of machinery, equipment, and software to a qualified direct selling entity for use in a warehouse or distribution center primarily for storing, transporting, or otherwise handling inventory that is held for sale to independent salespersons who operate as direct sellers and that is held primarily for distribution outside this state;

(b) As used in division (B)(48)(a) of this section:

(i) "Direct seller" means a person selling consumer products to individuals for personal or household use and not from a fixed retail location, including selling such product at in-home product demonstrations, parties, and other one-on-one selling.

(ii) "Qualified direct selling entity" means an entity selling to direct sellers at the time the entity enters into a tax credit agreement with the tax credit authority pursuant to section 122.17 of the Revised Code, provided that the agreement was entered into on or after January 1, 2007. Neither contingencies relevant to the granting of, nor later developments with respect to, the tax credit shall impair the status of the qualified direct selling entity under division (B)(48) of this section after execution of the tax credit agreement by the tax credit authority.

(c) Division (B)(48) of this section is limited to machinery, equipment, and software first stored, used, or consumed in this state within the period commencing June 24, 2008, and ending on the date that is five years after that date.

(49) Sales of materials, parts, equipment, or engines used in the repair or maintenance of aircraft or avionics systems of such aircraft, and sales of repair, remodeling, replacement, or maintenance services in this state performed on aircraft or on an aircraft's avionics, engine, or component materials or parts. As used in division (B)(49) of this section, "aircraft" means aircraft of more than six thousand pounds maximum certified takeoff weight or used exclusively in general aviation.

(50) Sales of full flight simulators that are used for pilot or flight-crew training, sales of repair or replacement parts or components, and sales of repair or maintenance services for such full flight simulators. "Full flight simulator" means a replica of a specific type, or make, model, and series of aircraft cockpit. It includes the assemblage of equipment and computer programs necessary to represent aircraft operations in ground and flight conditions, a visual system providing an out-of-the-cockpit view, and a system that provides cues at least equivalent to those of a three-degree-of-freedom motion system, and has the full range of capabilities of the systems installed in the device as described in appendices A and B of part 60 of chapter 1 of title 14 of the Code of Federal Regulations.

(51) Any transfer or lease of tangible personal property between the state and JobsOhio in accordance with section 4313.02 of the Revised Code.

(52)(a) Sales to a qualifying corporation.

(b) As used in division (B)(52) of this section:

(i) "Qualifying corporation" means a nonprofit corporation organized in this state that leases from an eligible county land, buildings, structures, fixtures, and improvements to the land that are part of or used in a public recreational facility used by a major league professional athletic team or a class A to class AAA minor league affiliate of a major league professional athletic team for a significant portion of the team's home schedule, provided the following apply:

(I) The facility is leased from the eligible county pursuant to a lease that requires substantially all of the revenue from the operation of the business or activity conducted by the nonprofit corporation at the facility in excess of operating costs, capital expenditures, and reserves to be paid to the eligible county at least once per calendar year.

(II) Upon dissolution and liquidation of the nonprofit corporation, all of its net assets are

distributable to the board of commissioners of the eligible county from which the corporation leases the facility.

(ii) "Eligible county" has the same meaning as in section 307.695 of the Revised Code.

(53) Sales to or by a cable service provider, video service provider, or radio or television broadcast station regulated by the federal government of cable service or programming, video service or programming, audio service or programming, or electronically transferred digital audiovisual or audio work. As used in division (B)(53) of this section, "cable service" and "cable service provider" have the same meanings as in section 1332.01 of the Revised Code, and "video service," "video service provider," and "video programming" have the same meanings as in section 1332.21 of the Revised Code.

(54) Sales of investment metal bullion and investment coins. "Investment metal bullion" means any bullion described in section 408(m)(3)(B) of the Internal Revenue Code, regardless of whether that bullion is in the physical possession of a trustee. "Investment coin" means any coin composed primarily of gold, silver, platinum, or palladium.

(55) Sales of a digital audio work electronically transferred for delivery through use of a machine, such as a juke box, that does all of the following:

(a) Accepts direct payments to operate;

(b) Automatically plays a selected digital audio work for a single play upon receipt of a payment described in division (B)(55)(a) of this section;

(c) Operates exclusively for the purpose of playing digital audio works in a commercial establishment.

(56)(a) Sales of the following occurring on the first Friday of August and the following Saturday and Sunday of each year, beginning in 2018:

(i) An item of clothing, the price of which is seventy-five dollars or less;

(ii) An item of school supplies, the price of which is twenty dollars or less;

(iii) An item of school instructional material, the price of which is twenty dollars or less.

(b) As used in division (B)(56) of this section:

(i) "Clothing" means all human wearing apparel suitable for general use. "Clothing" includes, but is not limited to, aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and jackets; costumes; diapers, children and adult, including disposable diapers; ~~ear muffs~~ earmuffs; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoe laces; slippers; sneakers; socks and stockings; steel-toed shoes; underwear; uniforms, athletic and nonathletic; and wedding apparel. "Clothing" does not include items purchased for use in a trade or business; clothing accessories or equipment; protective equipment; sports or recreational equipment; belt buckles sold separately; costume masks sold separately; patches and emblems sold separately; sewing equipment and supplies including, but not limited to, knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, and thimbles; and sewing materials that become part of "clothing" including, but not limited to, buttons, fabric, lace, thread, yarn, and zippers.

(ii) "School supplies" means items commonly used by a student in a course of study. "School



supplies" includes only the following items: binders; book bags; calculators; cellophane tape; blackboard chalk; compasses; composition books; crayons; erasers; folders, expandable, pocket, plastic, and manila; glue, paste, and paste sticks; highlighters; index cards; index card boxes; legal pads; lunch boxes; markers; notebooks; paper, loose-leaf ruled notebook paper, copy paper, graph paper, tracing paper, manila paper, colored paper, poster board, and construction paper; pencil boxes and other school supply boxes; pencil sharpeners; pencils; pens; protractors; rulers; scissors; and writing tablets. "School supplies" does not include any item purchased for use in a trade or business.

(iii) "School instructional material" means written material commonly used by a student in a course of study as a reference and to learn the subject being taught. "School instructional material" includes only the following items: reference books, reference maps and globes, textbooks, and workbooks. "School instructional material" does not include any material purchased for use in a trade or business.

(C) For the purpose of the proper administration of this chapter, and to prevent the evasion of the tax, it is presumed that all sales made in this state are subject to the tax until the contrary is established.

(D) The levy of this tax on retail sales of recreation and sports club service shall not prevent a municipal corporation from levying any tax on recreation and sports club dues or on any income generated by recreation and sports club dues.

(E) The tax collected by the vendor from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state, and of counties levying an additional sales tax pursuant to section 5739.021 or 5739.026 of the Revised Code and of transit authorities levying an additional sales tax pursuant to section 5739.023 of the Revised Code. Except for the discount authorized under section 5739.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection or payment of the tax levied by this section or section 5739.021, 5739.023, or 5739.026 of the Revised Code.

**Sec. 5739.026.** (A) A board of county commissioners may levy a tax on every retail sale in the county, except sales of watercraft and outboard motors required to be titled pursuant to Chapter 1548. of the Revised Code and sales of motor vehicles, at a rate of not more than one-half of one per cent and may increase the rate of an existing tax to not more than one-half of one per cent to pay the expenses of administering the tax and, except as provided in division (A)(6) of this section, for any one or more of the following purposes provided that the aggregate levy for all such purposes does not exceed one-half of one per cent:

(1) To provide additional revenues for the payment of bonds or notes issued in anticipation of bonds issued by a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code and to provide additional operating revenues for the convention facilities authority;

(2) To provide additional revenues for a transit authority operating in the county;

(3) To provide additional revenue for the county's general fund;

(4) To provide additional revenue for permanent improvements to be distributed by the community improvements board in accordance with section 307.283 and to pay principal, interest, and premium on bonds issued under section 307.284 of the Revised Code;

(5) To provide additional revenue for the acquisition, construction, equipping, or repair of any specific permanent improvement or any class or group of permanent improvements, which improvement or class or group of improvements shall be enumerated in the resolution required by division (D) of this section, and to pay principal, interest, premium, and other costs associated with the issuance of bonds or notes in anticipation of bonds issued pursuant to Chapter 133. of the Revised Code for the acquisition, construction, equipping, or repair of the specific permanent improvement or class or group of permanent improvements;

(6) To provide revenue for the implementation and operation of a 9-1-1 system in the county. If the tax is levied or the rate increased exclusively for such purpose, the tax shall not be levied or the rate increased for more than five years. At the end of the last year the tax is levied or the rate increased, any balance remaining in the special fund established for such purpose shall remain in that fund and be used exclusively for such purpose until the fund is completely expended, and, notwithstanding section 5705.16 of the Revised Code, the board of county commissioners shall not petition for the transfer of money from such special fund, and the tax commissioner shall not approve such a petition.

If the tax is levied or the rate increased for such purpose for more than five years, the board of county commissioners also shall levy the tax or increase the rate of the tax for one or more of the purposes described in divisions (A)(1) to (5) of this section and shall prescribe the method for allocating the revenues from the tax each year in the manner required by division (C) of this section.

(7) To provide additional revenue for the operation or maintenance of a detention facility, as that term is defined under division (F) of section 2921.01 of the Revised Code;

(8) To provide revenue to finance the construction or renovation of a sports facility, but only if the tax is levied for that purpose in the manner prescribed by section 5739.028 of the Revised Code.

As used in division (A)(8) of this section:

(a) "Sports facility" means a facility intended to house major league professional athletic teams.

(b) "Constructing" or "construction" includes providing fixtures, furnishings, and equipment.

(9) To provide additional revenue for the acquisition of agricultural easements, as defined in section 5301.67 of the Revised Code; to pay principal, interest, and premium on bonds issued under section 133.60 of the Revised Code; and for the supervision and enforcement of agricultural easements held by the county;

(10) To provide revenue for the provision of ambulance, paramedic, or other emergency medical services;

(11) To provide revenue for the operation of a lake facilities authority and the remediation of an impacted watershed by a lake facilities authority, as provided in Chapter 353. of the Revised Code;

(12) To provide additional revenue for a regional transportation improvement project under section 5595.06 of the Revised Code.

Pursuant to section 755.171 of the Revised Code, a board of county commissioners may pledge and contribute revenue from a tax levied for the purpose of division (A)(5) of this section to the payment of debt charges on bonds issued under section 755.17 of the Revised Code.

The rate of tax shall be a multiple of one-fourth or one-tenth of one per cent, unless a portion of the rate of an existing tax levied under section 5739.023 of the Revised Code has been reduced, and the rate of tax levied under this section has been increased, pursuant to section 5739.028 of the Revised Code, in which case the aggregate of the rates of tax levied under this section and section 5739.023 of the Revised Code shall be a multiple of one-fourth or one-tenth of one per cent.

The tax shall be levied and the rate increased pursuant to a resolution adopted by a majority of the members of the board. The board shall deliver a certified copy of the resolution to the tax commissioner, not later than the sixty-fifth day prior to the date on which the tax is to become effective, which shall be the first day of a calendar quarter.

Prior to the adoption of any resolution to levy the tax or to increase the rate of tax exclusively for the purpose set forth in division (A)(3) of this section, the board of county commissioners shall conduct two public hearings on the resolution, the second hearing to be no fewer than three nor more than ten days after the first. Notice of the date, time, and place of the hearings shall be given by publication in a newspaper of general circulation in the county, or as provided in section 7.16 of the Revised Code, once a week on the same day of the week for two consecutive weeks. The second publication shall be no fewer than ten nor more than thirty days prior to the first hearing. Except as provided in division (E) of this section, the resolution shall be subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code. If the resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, it must receive an affirmative vote of all of the members of the board of county commissioners and shall state the reasons for the necessity.

If the tax is for more than one of the purposes set forth in divisions (A)(1) to (7), (9), (10), and (12) of this section, or is exclusively for one of the purposes set forth in division (A)(1), (2), (4), (5), (6), (7), (9), (10), or (12) of this section, the resolution shall not go into effect unless it is approved by a majority of the electors voting on the question of the tax.

(B) The board of county commissioners shall adopt a resolution under section 351.02 of the Revised Code creating the convention facilities authority, or under section 307.283 of the Revised Code creating the community improvements board, before adopting a resolution levying a tax for the purpose of a convention facilities authority under division (A)(1) of this section or for the purpose of a community improvements board under division (A)(4) of this section.

(C)(1) If the tax is to be used for more than one of the purposes set forth in divisions (A)(1) to (7), (9), (10), and (12) of this section, the board of county commissioners shall establish the method that will be used to determine the amount or proportion of the tax revenue received by the county during each year that will be distributed for each of those purposes, including, if applicable, provisions governing the reallocation of a convention facilities authority's allocation if the authority is dissolved while the tax is in effect. The allocation method may provide that different proportions or amounts of the tax shall be distributed among the purposes in different years, but it shall clearly describe the method that will be used for each year. Except as otherwise provided in division (C)(2) of this section, the allocation method established by the board is not subject to amendment during the life of the tax.

(2) Subsequent to holding a public hearing on the proposed amendment, the board of county commissioners may amend the allocation method established under division (C)(1) of this section for

any year, if the amendment is approved by the governing board of each entity whose allocation for the year would be reduced by the proposed amendment. In the case of a tax that is levied for a continuing period of time, the board may not so amend the allocation method for any year before the sixth year that the tax is in effect.

(a) If the additional revenues provided to the convention facilities authority are pledged by the authority for the payment of convention facilities authority revenue bonds for as long as such bonds are outstanding, no reduction of the authority's allocation of the tax shall be made for any year except to the extent that the reduced authority allocation, when combined with the authority's other revenues pledged for that purpose, is sufficient to meet the debt service requirements for that year on such bonds.

(b) If the additional revenues provided to the county are pledged by the county for the payment of bonds or notes described in division (A)(4) or (5) of this section, for as long as such bonds or notes are outstanding, no reduction of the county's or the community improvements board's allocation of the tax shall be made for any year, except to the extent that the reduced county or community improvements board allocation is sufficient to meet the debt service requirements for that year on such bonds or notes.

(c) If the additional revenues provided to the transit authority are pledged by the authority for the payment of revenue bonds issued under section 306.37 of the Revised Code, for as long as such bonds are outstanding, no reduction of the authority's allocation of tax shall be made for any year, except to the extent that the authority's reduced allocation, when combined with the authority's other revenues pledged for that purpose, is sufficient to meet the debt service requirements for that year on such bonds.

(d) If the additional revenues provided to the county are pledged by the county for the payment of bonds or notes issued under section 133.60 of the Revised Code, for so long as the bonds or notes are outstanding, no reduction of the county's allocation of the tax shall be made for any year, except to the extent that the reduced county allocation is sufficient to meet the debt service requirements for that year on the bonds or notes.

(D)(1) The resolution levying the tax or increasing the rate of tax shall state the rate of the tax or the rate of the increase; the purpose or purposes for which it is to be levied; the number of years for which it is to be levied or that it is for a continuing period of time; the allocation method required by division (C) of this section; and if required to be submitted to the electors of the county under division (A) of this section, the date of the election at which the proposal shall be submitted to the electors of the county, which shall be not less than ninety days after the certification of a copy of the resolution to the board of elections and, if the tax is to be levied exclusively for the purpose set forth in division (A)(3) of this section, shall not occur in August of any year. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. If approved by a majority of the electors, the tax shall become effective on the first day of a calendar quarter next following the sixty-fifth day following the date the board of county commissioners and tax commissioner receive from the board of elections the certification of the results of the election, except as provided in division (E) of this section.

(2)(a) A resolution specifying that the tax is to be used exclusively for the purpose set forth in

division (A)(3) of this section that is not adopted as an emergency measure may direct the board of elections to submit the question of levying the tax or increasing the rate of the tax to the electors of the county at a special election held on the date specified by the board of county commissioners in the resolution, provided that the election occurs not less than ninety days after the resolution is certified to the board of elections and the election is not held in August of any year. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. No resolution adopted under division (D)(2)(a) of this section shall go into effect unless approved by a majority of those voting upon it and, except as provided in division (E) of this section, not until the first day of a calendar quarter following the expiration of sixty-five days from the date the tax commissioner receives notice from the board of elections of the affirmative vote.

(b) A resolution specifying that the tax is to be used exclusively for the purpose set forth in division (A)(3) of this section that is adopted as an emergency measure shall become effective as provided in division (A) of this section, but may direct the board of elections to submit the question of repealing the tax or increase in the rate of the tax to the electors of the county at the next general election in the county occurring not less than ninety days after the resolution is certified to the board of elections. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. The ballot question shall be the same as that prescribed in section 5739.022 of the Revised Code. The board of elections shall notify the board of county commissioners and the tax commissioner of the result of the election immediately after the result has been declared. If a majority of the qualified electors voting on the question of repealing the tax or increase in the rate of the tax vote for repeal of the tax or repeal of the increase, the board of county commissioners, on the first day of a calendar quarter following the expiration of sixty-five days after the date the board and tax commissioner received notice of the result of the election, shall, in the case of a repeal of the tax, cease to levy the tax, or, in the case of a repeal of an increase in the rate of the tax, cease to levy the increased rate and levy the tax at the rate at which it was imposed immediately prior to the increase in rate.

(c) A board of county commissioners, by resolution, may reduce the rate of a tax levied exclusively for the purpose set forth in division (A)(3) of this section to a lower rate authorized by this section. Any such reduction shall be made effective on the first day of the calendar quarter next following the sixty-fifth day after the tax commissioner receives a certified copy of the resolution from the board.

(E) If a vendor makes a sale in this state by printed catalog and the consumer computed the tax on the sale based on local rates published in the catalog, any tax levied or repealed or rate changed under this section shall not apply to such a sale until the first day of a calendar quarter following the expiration of one hundred twenty days from the date of notice by the tax commissioner pursuant to division (G) of this section.

(F) The tax levied pursuant to this section shall be in addition to the tax levied by section 5739.02 of the Revised Code and any tax levied pursuant to section 5739.021 or 5739.023 of the Revised Code.

A county that levies a tax pursuant to this section shall levy a tax at the same rate pursuant to

section 5741.023 of the Revised Code.

The additional tax levied by the county shall be collected pursuant to section 5739.025 of the Revised Code.

Any tax levied pursuant to this section is subject to the exemptions provided in section 5739.02 of the Revised Code and in addition shall not be applicable to sales not within the taxing power of a county under the Constitution of the United States or the Ohio Constitution.

(G) Upon receipt from a board of county commissioners of a certified copy of a resolution required by division (A) of this section, or from the board of elections a notice of the results of an election required by division (D)(1), (2)(a), (b), or (c) of this section, the tax commissioner shall provide notice of a tax rate change in a manner that is reasonably accessible to all affected vendors. The commissioner shall provide this notice at least sixty days prior to the effective date of the rate change. The commissioner, by rule, may establish the method by which notice will be provided.

**Sec. 5739.029.** (A) Notwithstanding sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code, and except as otherwise provided in division (B) of this section, the tax due under this chapter on the sale of a motor vehicle required to be titled under Chapter 4505. of the Revised Code by a motor vehicle dealer to a consumer that is a nonresident of this state shall be the lesser of the amount of tax that would be due under this chapter and Chapter 5741. of the Revised Code if the total combined rate were six per cent, or the amount of tax that would be due to the state in which the consumer titles or registers the motor vehicle or to which the consumer removes the vehicle for use.

(B) No tax is due under this section, any other section of this chapter, or Chapter 5741. of the Revised Code under any of the following circumstances:

(1)(a) The consumer intends to immediately remove the motor vehicle from this state for use outside this state;

(b) Upon removal of the motor vehicle from this state, the consumer intends to title or register the vehicle in another state if such titling or registration is required;

(c) The consumer executes an affidavit as required under division (C) of this section affirming the consumer's intentions under divisions (B)(1)(a) and (b) of this section; and

(d) The state in which the consumer titles or registers the motor vehicle or to which the consumer removes the vehicle for use provides an exemption under circumstances substantially similar to those described in division (B)(1) of this section.

(2) The state in which the consumer titles or registers the motor vehicle or to which the consumer removes the vehicle for use does not provide a credit against its sales or use tax or similar excise tax for sales or use tax paid to this state.

(3) The state in which the consumer titles or registers the motor vehicle or to which the consumer removes the vehicle for use does not impose a sales or use tax or similar excise tax on the ownership or use of motor vehicles.

(C) Any nonresident consumer that purchases a motor vehicle from a motor vehicle dealer in this state under the circumstances described in divisions (B)(1)(a) and (b) of this section shall execute an affidavit affirming the intentions described in those divisions. The affidavit shall be executed in triplicate and in the form specified by the tax commissioner. The affidavit shall be given to the motor vehicle dealer.

A motor vehicle dealer that accepts in good faith an affidavit presented under this division by a nonresident consumer may rely upon the representations made in the affidavit.

(D) A motor vehicle dealer making a sale subject to the tax under division (A) of this section shall collect the tax due unless the sale is subject to the exception under division (B) of this section or unless the sale is not otherwise subject to taxes levied under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code. In the case of a sale under the circumstances described in division (B)(1) of this section, the dealer shall retain one copy of the affidavit and file the original and the other copy with the clerk of the court of common pleas. If tax is due under division (A) of this section, the dealer shall remit the tax collected to the clerk at the time the dealer obtains the Ohio certificate of title in the name of the consumer as required under section 4505.06 of the Revised Code. The clerk shall forward the original affidavit to the tax commissioner in the manner prescribed by the commissioner.

Unless a sale is excepted from taxation under division (B) of this section, upon receipt of an application for certificate of title a clerk of the court of common pleas shall collect the sales tax due under division (A) of this section. The clerk shall remit the tax collected to the tax commissioner in the manner prescribed by the commissioner.

(E) If a motor vehicle is purchased by a corporation described in division (B)(6) of section 5739.01 of the Revised Code, the state of residence of the consumer for the purposes of this section is the state of residence of the corporation's principal shareholder.

(F) Any provision of this chapter or of Chapter 5741. of the Revised Code that is not inconsistent with this section applies to sales described in division (A) of this section.

(G) As used in this section:

(1) For the purposes of this section only, the sale or purchase of a motor vehicle does not include a lease or rental of a motor vehicle subject to division (A)(2) or (3) of section 5739.02 or division (A)(2) or (3) of section 5741.02 of the Revised Code;

(2) "State," except in reference to "this state," means any state, district, commonwealth, or territory of the United States and any province of Canada.

**Sec. 5739.09.** (A)(1) A board of county commissioners may, by resolution adopted by a majority of the members of the board, levy an excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The board shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. Except as provided in divisions (A)(2), (3), (4), (5), (6), (7), (8), (9), (10), (11), and (12) of this section, the regulations shall provide, after deducting the real and actual costs of administering the tax, for the return to each municipal corporation or township that does not levy an excise tax on the transactions, a uniform percentage of the tax collected in the municipal corporation or in the unincorporated portion of the township from each transaction, not to exceed thirty-three and one-third per cent. The remainder of the revenue arising from the tax shall be deposited in a separate fund and shall be spent solely to make contributions to the convention and visitors' bureau operating within the county, including a pledge and contribution of any portion of the

remainder pursuant to an agreement authorized by section 307.678 or 307.695 of the Revised Code, provided that if the board of county commissioners of an eligible county as defined in section 307.678 or 307.695 of the Revised Code adopts a resolution amending a resolution levying a tax under this division to provide that revenue from the tax shall be used by the board as described in either division (D) of section 307.678 or division (H) of section 307.695 of the Revised Code, the remainder of the revenue shall be used as described in the resolution making that amendment. Except as provided in division (A)(2), (3), (4), (5), (6), (7), (8), (9), (10), or (11) or (H) of this section, on and after May 10, 1994, a board of county commissioners may not levy an excise tax pursuant to this division in any municipal corporation or township located wholly or partly within the county that has in effect an ordinance or resolution levying an excise tax pursuant to division (B) of this section. The board of a county that has levied a tax under division (C) of this section may, by resolution adopted within ninety days after July 15, 1985, by a majority of the members of the board, amend the resolution levying a tax under this division to provide for a portion of that tax to be pledged and contributed in accordance with an agreement entered into under section 307.695 of the Revised Code. A tax, any revenue from which is pledged pursuant to such an agreement, shall remain in effect at the rate at which it is imposed for the duration of the period for which the revenue from the tax has been so pledged.

The board of county commissioners of an eligible county as defined in section 307.695 of the Revised Code may, by resolution adopted by a majority of the members of the board, amend a resolution levying a tax under this division to provide that the revenue from the tax shall be used by the board as described in division (H) of section 307.695 of the Revised Code, in which case the tax shall remain in effect at the rate at which it was imposed for the duration of any agreement entered into by the board under section 307.695 of the Revised Code, the duration during which any securities issued by the board under that section are outstanding, or the duration of the period during which the board owns a project as defined in section 307.695 of the Revised Code, whichever duration is longest.

The board of county commissioners of an eligible county as defined in section 307.678 of the Revised Code may, by resolution, amend a resolution levying a tax under this division to provide that revenue from the tax, not to exceed five hundred thousand dollars each year, may be used as described in division (E) of section 307.678 of the Revised Code.

Notwithstanding division (A)(1) of this section, the board of county commissioners of a county described in division (A)(8)(a) of this section may, by resolution, amend a resolution levying a tax under this division to provide that all or a portion of the revenue from the tax, including any revenue otherwise required to be returned to townships or municipal corporations under this division, may be used or pledged for the payment of debt service on securities issued to pay the costs of constructing, operating, and maintaining sports facilities described in division (A)(8)(b) of this section.

The board of county commissioners of a county described in division (A)(9) of this section may, by resolution, amend a resolution levying a tax under this division to provide that all or a portion of the revenue from the tax may be used for the purposes described in section 307.679 of the Revised Code.

(2) A board of county commissioners that levies an excise tax under division (A)(1) of this



section on June 30, 1997, at a rate of three per cent, and that has pledged revenue from the tax to an agreement entered into under section 307.695 of the Revised Code or, in the case of the board of county commissioners of an eligible county as defined in section 307.695 of the Revised Code, has amended a resolution levying a tax under division (C) of this section to provide that proceeds from the tax shall be used by the board as described in division (H) of section 307.695 of the Revised Code, may, at any time by a resolution adopted by a majority of the members of the board, amend the resolution levying a tax under division (A)(1) of this section to provide for an increase in the rate of that tax up to seven per cent on each transaction; to provide that revenue from the increase in the rate shall be used as described in division (H) of section 307.695 of the Revised Code or be spent solely to make contributions to the convention and visitors' bureau operating within the county to be used specifically for promotion, advertising, and marketing of the region in which the county is located; and to provide that the rate in excess of the three per cent levied under division (A)(1) of this section shall remain in effect at the rate at which it is imposed for the duration of the period during which any agreement is in effect that was entered into under section 307.695 of the Revised Code by the board of county commissioners levying a tax under division (A)(1) of this section, the duration of the period during which any securities issued by the board under division (I) of section 307.695 of the Revised Code are outstanding, or the duration of the period during which the board owns a project as defined in section 307.695 of the Revised Code, whichever duration is longest. The amendment also shall provide that no portion of that revenue need be returned to townships or municipal corporations as would otherwise be required under division (A)(1) of this section.

(3) A board of county commissioners that levies a tax under division (A)(1) of this section on March 18, 1999, at a rate of three per cent may, by resolution adopted not later than forty-five days after March 18, 1999, amend the resolution levying the tax to provide for all of the following:

(a) That the rate of the tax shall be increased by not more than an additional four per cent on each transaction;

(b) That all of the revenue from the increase in the rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before November 15, 1998, and used to pay costs of constructing, maintaining, operating, and promoting a facility in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter;

(c) That no portion of the revenue arising from the increase in rate need be returned to municipal corporations or townships as otherwise required under division (A)(1) of this section;

(d) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law or by the board of county commissioners for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds.

Division (A)(3) of this section does not apply to the board of county commissioners of any county in which a convention center or facility exists or is being constructed on November 15, 1998, or of any county in which a convention facilities authority levies a tax pursuant to section 351.021 of the Revised Code on that date.

As used in division (A)(3) of this section, "cost" and "facility" have the same meanings as in

section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(4)(a) A board of county commissioners that levies a tax under division (A)(1) of this section on June 30, 2002, at a rate of three per cent may, by resolution adopted not later than September 30, 2002, amend the resolution levying the tax to provide for all of the following:

(i) That the rate of the tax shall be increased by not more than an additional three and one-half per cent on each transaction;

(ii) That all of the revenue from the increase in rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before May 15, 2002, and be used to pay costs of constructing, expanding, maintaining, operating, or promoting a convention center in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter;

(iii) That no portion of the revenue arising from the increase in rate need be returned to municipal corporations or townships as otherwise required under division (A)(1) of this section;

(iv) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law or by the board of county commissioners for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds.

(b) Any board of county commissioners that, pursuant to division (A)(4)(a) of this section, has amended a resolution levying the tax authorized by division (A)(1) of this section may further amend the resolution to provide that the revenue referred to in division (A)(4)(a)(ii) of this section shall be pledged and contributed both to a convention facilities authority to pay the costs of constructing, expanding, maintaining, or operating one or more convention centers in the county, including paying bonds, or notes issued in anticipation of bonds, as provided in Chapter 351. of the Revised Code, and to a convention and visitors' bureau to pay the costs of promoting one or more convention centers in the county.

As used in division (A)(4) of this section, "cost" has the same meaning as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(5)(a) As used in division (A)(5) of this section:

(i) "Port authority" means a port authority created under Chapter 4582. of the Revised Code.

(ii) "Port authority military-use facility" means port authority facilities on which or adjacent to which is located an installation of the armed forces of the United States, a reserve component thereof, or the national guard and at least part of which is made available for use, for consideration, by the armed forces of the United States, a reserve component thereof, or the national guard.

(b) For the purpose of contributing revenue to pay operating expenses of a port authority that operates a port authority military-use facility, the board of county commissioners of a county that created, participated in the creation of, or has joined such a port authority may do one or both of the following:

(i) Amend a resolution previously adopted under division (A)(1) of this section to designate some or all of the revenue from the tax levied under the resolution to be used for that purpose,

notwithstanding that division;

(ii) Amend a resolution previously adopted under division (A)(1) of this section to increase the rate of the tax by not more than an additional two per cent and use the revenue from the increase exclusively for that purpose.

(c) If a board of county commissioners amends a resolution to increase the rate of a tax as authorized in division (A)(5)(b)(ii) of this section, the board also may amend the resolution to specify that the increase in rate of the tax does not apply to "hotels," as otherwise defined in section 5739.01 of the Revised Code, having fewer rooms used for the accommodation of guests than a number of rooms specified by the board.

(6) A board of county commissioners of a county organized under a county charter adopted pursuant to Article X, Section 3, Ohio Constitution, and that levies an excise tax under division (A)(1) of this section at a rate of three per cent and levies an additional excise tax under division (E) of this section at a rate of one and one-half per cent may, by resolution adopted not later than January 1, 2008, by a majority of the members of the board, amend the resolution levying a tax under division (A)(1) of this section to provide for an increase in the rate of that tax by not more than an additional one per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. Notwithstanding divisions (A)(1) and (E) of this section, the resolution shall provide that all of the revenue from the increase in rate, after deducting the real and actual costs of administering the tax, shall be used to pay the costs of improving, expanding, equipping, financing, or operating a convention center by a convention and visitors' bureau in the county. The increase in rate shall remain in effect for the period specified in the resolution, not to exceed ten years, and may be extended for an additional period of time not to exceed ten years thereafter by a resolution adopted by a majority of the members of the board. The increase in rate shall be subject to the regulations adopted under division (A)(1) of this section, except that the resolution may provide that no portion of the revenue from the increase in the rate shall be returned to townships or municipal corporations as would otherwise be required under that division.

(7) Division (A)(7) of this section applies only to a county with a population greater than sixty-five thousand and less than seventy thousand according to the most recent federal decennial census and in which, on December 31, 2006, an excise tax is levied under division (A)(1) of this section at a rate not less than and not greater than three per cent, and in which the most recent increase in the rate of that tax was enacted or took effect in November 1984.

The board of county commissioners of a county to which this division applies, by resolution adopted by a majority of the members of the board, may increase the rate of the tax by not more than one per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The increase in rate shall be for the purpose of paying expenses deemed necessary by the convention and visitors' bureau operating in the county to promote travel and tourism. The increase in rate shall remain in effect for the period specified in the resolution, not to exceed twenty years, provided that the increase in rate may not continue beyond the time when the purpose for which the increase is levied ceases to exist. If revenue from the increase in rate is pledged to the payment of debt charges on securities, the increase in rate is not subject to diminution by initiative or referendum or by law for so long as the securities are outstanding, unless provision is made by law or by the board of county commissioners for an adequate substitute for that revenue that is satisfactory to the trustee if a trust

agreement secures payment of the debt charges. The increase in rate shall be subject to the regulations adopted under division (A)(1) of this section, except that the resolution may provide that no portion of the revenue from the increase in the rate shall be returned to townships or municipal corporations as would otherwise be required under division (A)(1) of this section. A resolution adopted under division (A)(7) of this section is subject to referendum under sections 305.31 to 305.99 of the Revised Code.

(8)(a) Division (A)(8) of this section applies only to a county satisfying all of the following:

(i) The population of the county is greater than one hundred seventy-five thousand and less than two hundred twenty-five thousand according to the most recent federal decennial census.

(ii) An amusement park with an average yearly attendance in excess of two million guests is located in the county.

(iii) On December 31, 2014, an excise tax was levied in the county under division (A)(1) of this section at a rate of three per cent.

(b) The board of county commissioners of a county to which this division applies, by resolution adopted by a majority of the members of the board, may increase the rate of the tax by not more than one per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The increase in rate shall be used to pay the costs of constructing and maintaining facilities owned by the county or by a port authority created under Chapter 4582. of the Revised Code, and designed to host sporting events and expenses deemed necessary by the convention and visitors' bureau operating in the county to promote travel and tourism with reference to the sports facilities, and to pay or pledge to the payment of debt service on securities issued to pay the costs of constructing, operating, and maintaining the sports facilities. The increase in rate shall remain in effect for the period specified in the resolution. If revenue from the increase in rate is pledged to the payment of debt charges on securities, the increase in rate is not subject to diminution by initiative or referendum or by law for so long as the securities are outstanding, unless provision is made by law or by the board of county commissioners for an adequate substitute for that revenue that is satisfactory to the trustee if a trust agreement secures payment of the debt charges. The increase in rate shall be subject to the regulations adopted under division (A)(1) of this section, except that the resolution may provide that no portion of the revenue from the increase in the rate shall be returned to townships or municipal corporations as would otherwise be required under division (A)(1) of this section.

(9) The board of county commissioners of a county with a population greater than seventy-five thousand and less than seventy-eight thousand, by resolution adopted by a majority of the members of the board not later than October 15, 2015, may increase the rate of the tax by not more than one per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The increase in rate shall be for the purposes described in section 307.679 of the Revised Code or for the promotion of travel and tourism in the county, including travel and tourism to sports facilities. The increase in rate shall remain in effect for the period specified in the resolution and as necessary to fulfill the county's obligations under a cooperative agreement entered into under section 307.679 of the Revised Code. If the resolution is adopted by the board before September 29, 2015, but after that enactment becomes law, the increase in rate shall become effective beginning on September 29, 2015. If revenue from the increase in rate is pledged to the payment of debt charges on securities, or to substitute for other revenues pledged to the payment of such debt, the increase in rate

is not subject to diminution by initiative or referendum or by law for so long as the securities are outstanding, unless provision is made by law or by the board of county commissioners for an adequate substitute for that revenue that is satisfactory to the trustee if a trust agreement secures payment of the debt charges. The increase in rate shall be subject to the regulations adopted under division (A)(1) of this section, except that no portion of the revenue from the increase in the rate shall be returned to townships or municipal corporations as would otherwise be required under division (A)(1) of this section.

(10) Division (A)(10) of this section applies only to counties satisfying either of the following:

(a) A county that, on July 1, 2015, does not levy an excise tax under division (A)(1) of this section and that has a population of at least thirty-nine thousand but not more than forty thousand according to the 2010 federal decennial census;

(b) A county that, on July 1, 2015, levies an excise tax under division (A)(1) of this section at a rate of three per cent and that has a population of at least seventy-one thousand but not more than seventy-five thousand according to 2010 federal decennial census.

The board of county commissioners of a county to which division (A)(10) of this section applies, by resolution adopted by a majority of the members of the board, may levy an excise tax at a rate not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests for the purpose of acquiring, constructing, equipping, or repairing permanent improvements, as defined in section 133.01 of the Revised Code. If the board does not levy a tax under division (A)(1) of this section, the board shall establish regulations necessary to provide for the administration of the tax, which may prescribe the time for payment of the tax and the imposition of penalty or interest subject to the limitations on penalty and interest provided in division (A)(1) of this section. No portion of the revenue shall be returned to townships or municipal corporations in the county unless otherwise provided by resolution of the board. The tax shall apply throughout the territory of the county, including in any township or municipal corporation levying an excise tax under division (B) of this section or division (A) of section 5739.08 of the Revised Code. The levy of the tax is subject to referendum as provided under section 305.31 of the Revised Code.

The tax shall remain in effect for the period specified in the resolution. If revenue from the increase in rate is pledged to the payment of debt charges on securities, the increase in rate is not subject to diminution by initiative or referendum or by law for so long as the securities are outstanding unless provision is made by law or by the board for an adequate substitute for that revenue that is satisfactory to the trustee if a trust agreement secures payment of the debt charges.

(11) The board of county commissioners of an eligible county, as defined in section 307.678 of the Revised Code, that levies an excise tax under division (A)(1) of this section on July 1, 2017, at a rate of three per cent may, by resolution adopted by a majority of the members of the board, amend the resolution levying the tax to increase the rate of the tax by not more than an additional three per cent on each transaction. No portion of the revenue shall be returned to townships or municipal corporations in the county unless otherwise provided by resolution of the board. Otherwise, the revenue from the increase in the rate shall be distributed and used in the same manner described under division (A)(1) of this section or distributed or used to provide credit enhancement facilities as authorized under section 307.678 of the Revised Code. The increase in rate shall remain in effect for

the period specified in the resolution. If revenue from the increase in rate is pledged to the payment of debt charges on securities, the increase in rate is not subject to diminution by initiative or referendum or by law for so long as the securities are outstanding unless provision is made by law or by the board for an adequate substitute for that revenue that is satisfactory to the trustee if a trust agreement secures payment of the debt charges.

(12)(a) As used in this division:

(i) "Eligible county" means a county that has a population greater than one hundred ninety thousand and less than two hundred thousand according to the 2010 federal decennial census and that levies an excise tax under division (A)(1) of this section at a rate of three per cent.

(ii) "Professional sports facility" means a sports facility that is intended to house major or minor league professional athletic teams, including a stadium, together with all parking facilities, walkways, and other auxiliary facilities, real and personal property, property rights, easements, and interests that may be appropriate for, or used in connection with, the operation of the facility.

(b) Subject to division (A)(12)(c) of this section, the board of county commissioners of an eligible county, by resolution adopted by a majority of the members of the board, may increase the rate of the tax by not more than one per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. Revenue from the increase in rate shall be used for the purposes of paying the costs of constructing, improving, and maintaining a professional sports facility in the county and paying expenses considered necessary by the convention and visitors' bureau operating in the county to promote travel and tourism with respect to that professional sports facility. The tax shall take effect only after the convention and visitors' bureau enters into a contract for the construction, improvement, or maintenance of a professional sports facility that is or will be located on property acquired, in whole or in part, with revenue from the increased rate, and thereafter shall remain in effect for the period specified in the resolution. If revenue from the increase in rate is pledged to the payment of debt charges on securities, the increase in rate is not subject to diminution by initiative or referendum or by law for so long as the securities are outstanding, unless a provision is made by law or by the board of county commissioners for an adequate substitute for that revenue that is satisfactory to the trustee if a trust agreement secures payment of the debt charges. The increase in rate shall be subject to the regulations adopted under division (A)(1) of this section, except that the resolution may provide that no portion of the revenue from the increase in the rate shall be returned to townships or municipal corporations as would otherwise be required under division (A)(1) of this section.

(c) If, on January 1, 2019, the convention and visitors' bureau has not entered into a contract for the construction, improvement, or maintenance of a professional sports facility that is or will be located on property acquired, in whole or in part, with revenue from the increased rate, the authority to levy the tax under division (A)(12)(b) of this section is hereby repealed on that date.

(B)(1) The legislative authority of a municipal corporation or the board of trustees of a township that is not wholly or partly located in a county that has in effect a resolution levying an excise tax pursuant to division (A)(1) of this section may, by ordinance or resolution, levy an excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The legislative authority of the municipal corporation or the board of trustees of the township shall deposit at least fifty per cent of the revenue from the tax levied pursuant to this

division into a separate fund, which shall be spent solely to make contributions to convention and visitors' bureaus operating within the county in which the municipal corporation or township is wholly or partly located, and the balance of that revenue shall be deposited in the general fund. The municipal corporation or township shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. The levy of a tax under this division is in addition to any tax imposed on the same transaction by a municipal corporation or a township as authorized by division (A) of section 5739.08 of the Revised Code.

(2)(a) The legislative authority of the most populous municipal corporation located wholly or partly in a county in which the board of county commissioners has levied a tax under division (A)(4) of this section may amend, on or before September 30, 2002, that municipal corporation's ordinance or resolution that levies an excise tax on transactions by which lodging by a hotel is or is to be furnished to transient guests, to provide for all of the following:

(i) That the rate of the tax shall be increased by not more than an additional one per cent on each transaction;

(ii) That all of the revenue from the increase in rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before May 15, 2002, and be used to pay costs of constructing, expanding, maintaining, operating, or promoting a convention center in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter;

(iii) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law, by the board of county commissioners, or by the legislative authority, for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds.

(b) The legislative authority of a municipal corporation that, pursuant to division (B)(2)(a) of this section, has amended its ordinance or resolution to increase the rate of the tax authorized by division (B)(1) of this section may further amend the ordinance or resolution to provide that the revenue referred to in division (B)(2)(a)(ii) of this section shall be pledged and contributed both to a convention facilities authority to pay the costs of constructing, expanding, maintaining, or operating one or more convention centers in the county, including paying bonds, or notes issued in anticipation of bonds, as provided in Chapter 351. of the Revised Code, and to a convention and visitors' bureau to pay the costs of promoting one or more convention centers in the county.

As used in division (B)(2) of this section, "cost" has the same meaning as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(3) The legislative authority of an eligible municipal corporation may amend, on or before December 31, 2017, that municipal corporation's ordinance or resolution that levies an excise tax on

transactions by which lodging by a hotel is or is to be furnished to transient guests, to provide for the following:

(a) That the rate of the tax shall be increased by not more than an additional three per cent on each transaction;

(b) That all of the revenue from the increase in rate shall be used by the municipal corporation for economic development and tourism-related purposes.

As used in division (B)(3) of this section, "eligible municipal corporation" means a municipal corporation that, on the effective date of the amendment of this section by H.B. 49 of the 132nd general assembly, September 29, 2017, levied a tax under division (B)(1) of this section at a rate of three per cent and that is located in a county that, on that date, levied a tax under division (A) of this section at a rate of three per cent and that has, according to the most recent federal decennial census, a population exceeding three hundred thousand but not greater than three hundred fifty thousand.

(C) For the purposes described in section 307.695 of the Revised Code and to cover the costs of administering the tax, a board of county commissioners of a county where a tax imposed under division (A)(1) of this section is in effect may, by resolution adopted within ninety days after July 15, 1985, by a majority of the members of the board, levy an additional excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The tax authorized by this division shall be in addition to any tax that is levied pursuant to division (A) of this section, but it shall not apply to transactions subject to a tax levied by a municipal corporation or township pursuant to the authorization granted by division (A) of section 5739.08 of the Revised Code. The board shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.695 of the Revised Code. The board of county commissioners of an eligible county as defined in section 307.695 of the Revised Code may, by resolution adopted by a majority of the members of the board, amend the resolution levying a tax under this division to provide that the revenue from the tax shall be used by the board as described in division (H) of section 307.695 of the Revised Code. A tax imposed under this division shall remain in effect at the rate at which it is imposed for the duration of the period during which any agreement entered into by the board under section 307.695 of the Revised Code is in effect, the duration of the period during which any securities issued by the board under division (I) of section 307.695 of the Revised Code are outstanding, or the duration of the period during which the board owns a project as defined in section 307.695 of the Revised Code, whichever duration is longest.

(D) For the purpose of providing contributions under division (B)(1) of section 307.671 of the Revised Code to enable the acquisition, construction, and equipping of a port authority educational and cultural facility in the county and, to the extent provided for in the cooperative agreement authorized by that section, for the purpose of paying debt service charges on bonds, or notes in anticipation of bonds, described in division (B)(1)(b) of that section, a board of county commissioners, by resolution adopted within ninety days after December 22, 1992, by a majority of



the members of the board, may levy an additional excise tax not to exceed one and one-half per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The excise tax authorized by this division shall be in addition to any tax that is levied pursuant to divisions (A), (B), and (C) of this section, to any excise tax levied pursuant to section 5739.08 of the Revised Code, and to any excise tax levied pursuant to section 351.021 of the Revised Code. The board of county commissioners shall establish all regulations necessary to provide for the administration and allocation of the tax that are not inconsistent with this section or section 307.671 of the Revised Code. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.671 of the Revised Code and division (D) of this section. The levy of a tax imposed under this division may not commence prior to the first day of the month next following the execution of the cooperative agreement authorized by section 307.671 of the Revised Code by all parties to that agreement. The tax shall remain in effect at the rate at which it is imposed for the period of time described in division (C) of section 307.671 of the Revised Code for which the revenue from the tax has been pledged by the county to the corporation pursuant to that section, but, to any extent provided for in the cooperative agreement, for no lesser period than the period of time required for payment of the debt service charges on bonds, or notes in anticipation of bonds, described in division (B)(1)(b) of that section.

(E) For the purpose of paying the costs of acquiring, constructing, equipping, and improving a municipal educational and cultural facility, including debt service charges on bonds provided for in division (B) of section 307.672 of the Revised Code, and for any additional purposes determined by the county in the resolution levying the tax or amendments to the resolution, including subsequent amendments providing for paying costs of acquiring, constructing, renovating, rehabilitating, equipping, and improving a port authority educational and cultural performing arts facility, as defined in section 307.674 of the Revised Code, and including debt service charges on bonds provided for in division (B) of section 307.674 of the Revised Code, the legislative authority of a county, by resolution adopted within ninety days after June 30, 1993, by a majority of the members of the legislative authority, may levy an additional excise tax not to exceed one and one-half per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The excise tax authorized by this division shall be in addition to any tax that is levied pursuant to divisions (A), (B), (C), and (D) of this section, to any excise tax levied pursuant to section 5739.08 of the Revised Code, and to any excise tax levied pursuant to section 351.021 of the Revised Code. The legislative authority of the county shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.672 of the Revised Code and this division. The levy of a tax imposed under this division shall not commence prior to the first day of the month next following the execution of the cooperative agreement authorized by section

307.672 of the Revised Code by all parties to that agreement. The tax shall remain in effect at the rate at which it is imposed for the period of time determined by the legislative authority of the county. That period of time shall not exceed fifteen years, except that the legislative authority of a county with a population of less than two hundred fifty thousand according to the most recent federal decennial census, by resolution adopted by a majority of its members before the original tax expires, may extend the duration of the tax for an additional period of time. The additional period of time by which a legislative authority extends a tax levied under this division shall not exceed fifteen years.

(F) The legislative authority of a county that has levied a tax under division (E) of this section may, by resolution adopted within one hundred eighty days after January 4, 2001, by a majority of the members of the legislative authority, amend the resolution levying a tax under that division to provide for the use of the proceeds of that tax, to the extent that it is no longer needed for its original purpose as determined by the parties to a cooperative agreement amendment pursuant to division (D) of section 307.672 of the Revised Code, to pay costs of acquiring, constructing, renovating, rehabilitating, equipping, and improving a port authority educational and cultural performing arts facility, including debt service charges on bonds provided for in division (B) of section 307.674 of the Revised Code, and to pay all obligations under any guaranty agreements, reimbursement agreements, or other credit enhancement agreements described in division (C) of section 307.674 of the Revised Code. The resolution may also provide for the extension of the tax at the same rate for the longer of the period of time determined by the legislative authority of the county, but not to exceed an additional twenty-five years, or the period of time required to pay all debt service charges on bonds provided for in division (B) of section 307.672 of the Revised Code and on port authority revenue bonds provided for in division (B) of section 307.674 of the Revised Code. All revenues arising from the amendment and extension of the tax shall be expended in accordance with section 307.674 of the Revised Code, this division, and division (E) of this section.

(G) For purposes of a tax levied by a county, township, or municipal corporation under this section or section 5739.08 of the Revised Code, a board of county commissioners, board of township trustees, or the legislative authority of a municipal corporation may adopt a resolution or ordinance at any time specifying that "hotel," as otherwise defined in section 5739.01 of the Revised Code, includes the following:

- (1) Establishments in which fewer than five rooms are used for the accommodation of guests.
- (2) Establishments at which rooms are used for the accommodation of guests regardless of whether each room is accessible through its own keyed entry or several rooms are accessible through the same keyed entry; and, in determining the number of rooms, all rooms are included regardless of the number of structures in which the rooms are situated or the number of parcels of land on which the structures are located if the structures are under the same ownership and the structures are not identified in advertisements of the accommodations as distinct establishments. For the purposes of division (G)(2) of this section, two or more structures are under the same ownership if they are owned by the same person, or if they are owned by two or more persons the majority of the ownership interests of which are owned by the same person.

The resolution or ordinance may apply to a tax imposed pursuant to this section prior to the adoption of the resolution or ordinance if the resolution or ordinance so states, but the tax shall not apply to transactions by which lodging by such an establishment is provided to transient guests prior

to the adoption of the resolution or ordinance.

(H)(1) As used in this division:

(a) "Convention facilities authority" has the same meaning as in section 351.01 of the Revised Code.

(b) "Convention center" has the same meaning as in section 307.695 of the Revised Code.

(2) Notwithstanding any contrary provision of division (D) of this section, the legislative authority of a county with a population of one million or more according to the most recent federal decennial census that has levied a tax under division (D) of this section may, by resolution adopted by a majority of the members of the legislative authority, provide for the extension of such levy and may provide that the proceeds of that tax, to the extent that they are no longer needed for their original purpose as defined by a cooperative agreement entered into under section 307.671 of the Revised Code, shall be deposited into the county general revenue fund. The resolution shall provide for the extension of the tax at a rate not to exceed the rate specified in division (D) of this section for a period of time determined by the legislative authority of the county, but not to exceed an additional forty years.

(3) The legislative authority of a county with a population of one million or more that has levied a tax under division (A)(1) of this section may, by resolution adopted by a majority of the members of the legislative authority, increase the rate of the tax levied by such county under division (A)(1) of this section to a rate not to exceed five per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. Notwithstanding any contrary provision of division (A)(1) of this section, the resolution may provide that all collections resulting from the rate levied in excess of three per cent, after deducting the real and actual costs of administering the tax, shall be deposited in the county general fund.

(4) The legislative authority of a county with a population of one million or more that has levied a tax under division (A)(1) of this section may, by resolution adopted on or before August 30, 2004, by a majority of the members of the legislative authority, provide that all or a portion of the proceeds of the tax levied under division (A)(1) of this section, after deducting the real and actual costs of administering the tax and the amounts required to be returned to townships and municipal corporations with respect to the first three per cent levied under division (A)(1) of this section, shall be deposited in the county general fund, provided that such proceeds shall be used to satisfy any pledges made in connection with an agreement entered into under section 307.695 of the Revised Code.

(5) No amount collected from a tax levied, extended, or required to be deposited in the county general fund under division (H) of this section shall be contributed to a convention facilities authority, corporation, or other entity created after July 1, 2003, for the principal purpose of constructing, improving, expanding, equipping, financing, or operating a convention center unless the mayor of the municipal corporation in which the convention center is to be operated by that convention facilities authority, corporation, or other entity has consented to the creation of that convention facilities authority, corporation, or entity. Notwithstanding any contrary provision of section 351.04 of the Revised Code, if a tax is levied by a county under division (H) of this section, the board of county commissioners of that county may determine the manner of selection, the qualifications, the number, and terms of office of the members of the board of directors of any

convention facilities authority, corporation, or other entity described in division (H)(5) of this section.

(6)(a) No amount collected from a tax levied, extended, or required to be deposited in the county general fund under division (H) of this section may be used for any purpose other than paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center and for the real and actual costs of administering the tax, unless, prior to the adoption of the resolution of the legislative authority of the county authorizing the levy, extension, increase, or deposit, the county and the mayor of the most populous municipal corporation in that county have entered into an agreement as to the use of such amounts, provided that such agreement has been approved by a majority of the mayors of the other municipal corporations in that county. The agreement shall provide that the amounts to be used for purposes other than paying the convention center or administrative costs described in division (H)(6)(a) of this section be used only for the direct and indirect costs of capital improvements, including the financing of capital improvements.

(b) If the county in which the tax is levied has an association of mayors and city managers, the approval of that association of an agreement described in division (H)(6)(a) of this section shall be considered to be the approval of the majority of the mayors of the other municipal corporations for purposes of that division.

(7) Each year, the auditor of state shall conduct an audit of the uses of any amounts collected from taxes levied, extended, or deposited under division (H) of this section and shall prepare a report of the auditor of state's findings. The auditor of state shall submit the report to the legislative authority of the county that has levied, extended, or deposited the tax, the speaker of the house of representatives, the president of the senate, and the leaders of the minority parties of the house of representatives and the senate.

(I)(1) As used in this division:

(a) "Convention facilities authority" has the same meaning as in section 351.01 of the Revised Code.

(b) "Convention center" has the same meaning as in section 307.695 of the Revised Code.

(2) Notwithstanding any contrary provision of division (D) of this section, the legislative authority of a county with a population of one million two hundred thousand or more according to the most recent federal decennial census or the most recent annual population estimate published or released by the United States census bureau at the time the resolution is adopted placing the levy on the ballot, that has levied a tax under division (D) of this section may, by resolution adopted by a majority of the members of the legislative authority, provide for the extension of such levy and may provide that the proceeds of that tax, to the extent that the proceeds are no longer needed for their original purpose as defined by a cooperative agreement entered into under section 307.671 of the Revised Code and after deducting the real and actual costs of administering the tax, shall be used for paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center. The resolution shall provide for the extension of the tax at a rate not to exceed the rate specified in division (D) of this section for a period of time determined by the legislative authority of the county, but not to exceed an additional forty years.

(3) The legislative authority of a county with a population of one million two hundred thousand or more that has levied a tax under division (A)(1) of this section may, by resolution

adopted by a majority of the members of the legislative authority, increase the rate of the tax levied by such county under division (A)(1) of this section to a rate not to exceed five per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. Notwithstanding any contrary provision of division (A)(1) of this section, the resolution shall provide that all collections resulting from the rate levied in excess of three per cent, after deducting the real and actual costs of administering the tax, shall be used for paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center.

(4) The legislative authority of a county with a population of one million two hundred thousand or more that has levied a tax under division (A)(1) of this section may, by resolution adopted on or before July 1, 2008, by a majority of the members of the legislative authority, provide that all or a portion of the proceeds of the tax levied under division (A)(1) of this section, after deducting the real and actual costs of administering the tax and the amounts required to be returned to townships and municipal corporations with respect to the first three per cent levied under division (A)(1) of this section, shall be used to satisfy any pledges made in connection with an agreement entered into under section 307.695 of the Revised Code or shall otherwise be used for paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center.

(5) Any amount collected from a tax levied or extended under division (I) of this section may be contributed to a convention facilities authority created before July 1, 2005, but no amount collected from a tax levied or extended under division (I) of this section may be contributed to a convention facilities authority, corporation, or other entity created after July 1, 2005, unless the mayor of the municipal corporation in which the convention center is to be operated by that convention facilities authority, corporation, or other entity has consented to the creation of that convention facilities authority, corporation, or entity.

(J)(1) Except as provided in division (J)(2) of this section, money collected by a county and distributed under this section to a convention and visitors' bureau in existence as of June 30, 2013, the effective date of H.B. 59 of the 130th general assembly, except for any such money pledged, as of that effective date, to the payment of debt service charges on bonds, notes, securities, or lease agreements, shall be used solely for tourism sales, marketing and promotion, and their associated costs, including, but not limited to, operational and administrative costs of the bureau, sales and marketing, and maintenance of the physical bureau structure.

(2) A convention and visitors' bureau that has entered into an agreement under section 307.678 of the Revised Code may use revenue it receives from a tax levied under division (A)(1) of this section as described in division (E) of section 307.678 of the Revised Code.

(K) The board of county commissioners of a county with a population between one hundred three thousand and one hundred seven thousand according to the most recent federal decennial census, by resolution adopted by a majority of the members of the board within six months after September 15, 2014, the effective date of H.B. 483 of the 130th general assembly, may levy a tax not to exceed three per cent on transactions by which a hotel is or is to be furnished to transient guests. The purpose of the tax shall be to pay the costs of expanding, maintaining, or operating a soldiers' memorial and the costs of administering the tax. All revenue arising from the tax shall be credited to one or more special funds in the county treasury and shall be spent solely for the purposes of paying

those costs. The board of county commissioners shall adopt all rules necessary to provide for the administration of the tax subject to the same limitations on imposing penalty or interest under division (A)(1) of this section.

As used in this division "soldiers' memorial" means a memorial constructed and funded under Chapter 345. of the Revised Code.

(L) A board of county commissioners of an eligible county, by resolution adopted by a majority of the members of the board, may levy an excise tax at the rate of up to three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests for the purpose of paying the costs of permanent improvements at sites at which one or more agricultural societies conduct fairs or exhibits, paying the costs of maintaining or operating such permanent improvements, and paying the costs of administering the tax. A resolution adopted under this division shall direct the board of elections to submit the question of the proposed lodging tax to the electors of the county at a special election held on the date specified by the board in the resolution, provided that the election occurs not less than ninety days after a certified copy of the resolution is transmitted to the board of elections. A resolution submitted to the electors under this division shall not go into effect unless it is approved by a majority of those voting upon it. The resolution takes effect on the date the board of county commissioners receives notification from the board of elections of an affirmative vote.

The tax shall remain in effect for the period specified in the resolution, not to exceed five years. All revenue arising from the tax shall be credited to one or more special funds in the county treasury and shall be spent solely for the purposes of paying the costs of such permanent improvements and maintaining or operating the improvements. Revenue allocated for the use of a county agricultural society may be credited to the county agricultural society fund created in section 1711.16 of the Revised Code upon appropriation by the board. If revenue is credited to that fund, it shall be expended only as provided in that section.

The board of county commissioners shall adopt all rules necessary to provide for the administration of the tax. The rules may prescribe the time for payment of the tax, and may provide for the imposition or penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed in section 5703.47 of the Revised Code.

As used in this division, "eligible county" means a county in which a county agricultural society or independent agricultural society is organized under section 1711.01 or 1711.02 of the Revised Code, provided the agricultural society owns a facility or site in the county at which an annual harness horse race is conducted where one-day attendance equals at least forty thousand attendees.

(M) As used in this division, "eligible county" means a county in which a tax is levied under division (A) of this section at a rate of three per cent and whose territory includes a part of Lake Erie the shoreline of which represents at least fifty per cent of the linear length of the county's border with other counties of this state.

The board of county commissioners of an eligible county that has entered into an agreement with a port authority in the county under section 4582.56 of the Revised Code may levy an additional lodging tax on transactions by which lodging by a hotel is or is to be furnished to transient guests for the purpose of financing lakeshore improvement projects constructed or financed by the port

authority under that section. The resolution levying the tax shall specify the purpose of the tax, the rate of the tax, which shall not exceed two per cent, and the number of years the tax will be levied or that it will be levied for a continuing period of time. The tax shall be administered pursuant to the regulations adopted by the board under division (A) of this section, except that all the proceeds of the tax levied under this division shall be pledged to the payment of the costs, including debt charges, of lakeshore improvements undertaken by a port authority pursuant to the agreement under section 4582.56 of the Revised Code. No revenue from the tax may be used to pay the current expenses of the port authority.

A resolution levying a tax under this division is subject to referendum under sections 305.31 to 305.41 and 305.99 of the Revised Code.

(N)(1)(a) Notwithstanding division (A) of this section, the board of county commissioners, board of township trustees, or legislative authority of any county, township, or municipal corporation that levies a lodging tax on September 29, 2017, and in which any part of a tourism development district is located on or after that date shall amend the ordinance or resolution levying the tax to require either of the following:

(i) In the case of a tax levied by a county, that all tourism development district lodging tax proceeds from that tax be used exclusively to foster and develop tourism in the tourism development district;

(ii) In the case of a tax levied by a township or municipal corporation, that all tourism development district lodging tax proceeds from that tax be used exclusively to foster and develop tourism in the tourism development district.

(b) Notwithstanding division (A) of this section, any ordinance or resolution levying a lodging tax adopted on or after September 29, 2017, by a county, township, or municipal corporation in which any part of a tourism development district is located on or after that date shall require that all tourism development district lodging tax proceeds from that tax be used exclusively to foster and develop tourism in the tourism development district.

(c) A county shall not use any of the proceeds described in division (N)(1)(a)(i) or (N)(1)(b) of this section unless the convention and visitors' bureau operating within the county approves the manner in which such proceeds are used to foster and develop tourism in the tourism development district. Upon obtaining such approval, the county may pay such proceeds to the bureau to use for the agreed-upon purpose.

A municipal corporation or township shall not use any of the proceeds described in division (N)(1)(a)(ii) or (N)(1)(b) of this section unless the convention and visitors' bureau operating within the municipal corporation or township approves the manner in which such proceeds are used to foster and develop tourism in the tourism development district. Upon obtaining such approval, the municipal corporation or township may pay such proceeds to the bureau to use for the agreed-upon purpose.

(2)(a) Notwithstanding division (A) of this section, the board of county commissioners of an eligible county that levies a lodging tax on ~~the effective date of the amendment of this section~~ March 23, 2018, may amend the resolution levying that tax to require that all or a portion of the proceeds of that tax otherwise required to be spent solely to make contributions to the convention and visitors' bureau operating within the county shall be used to foster and develop tourism in a tourism

development district.

(b) Notwithstanding division (A) of this section, the board of county commissioners of an eligible county that adopts a resolution levying a lodging tax on or after ~~the effective date of the amendment of this section March 23, 2018,~~ may require that all or a portion of the proceeds of that tax otherwise required to be spent solely to make contributions to the convention and visitors' bureau operating within the county pursuant to division (A) of this section shall be used to foster and develop tourism in a tourism development district.

(c) A county shall not use any of the proceeds in the manner described in division (N)(2)(a) or (b) of this section unless the convention and visitors' bureau operating within the county approves the manner in which such proceeds are used to foster and develop tourism in the tourism development district. Upon obtaining such approval, the county may pay such proceeds to the bureau to use for the agreed upon purpose.

(3) As used in division (N) of this section:

(a) "Tourism development district" means a district designated by a municipal corporation under section 715.014 of the Revised Code or by a township under section 503.56 of the Revised Code.

(b) "Lodging tax" means a tax levied pursuant to this section or section 5739.08 of the Revised Code.

(c) "Tourism development district lodging tax proceeds" means all proceeds of a lodging tax derived from transactions by which lodging by a hotel located in a tourism development district is or is to be provided to transient guests.

(d) "Eligible county" has the same meaning as in section 307.678 of the Revised Code.

**Sec. 5739.101.** (A) The legislative authority of a municipal corporation, by ordinance or resolution, or of a township, by resolution, may declare the municipal corporation or township to be a resort area for the purposes of this section, if all of the following criteria are met:

(1) According to statistics published by the federal government based on data compiled during the most recent decennial census of the United States, at least sixty-two per cent of total housing units in the municipal corporation or township are classified as "for seasonal, recreational, or occasional use";

(2) Entertainment and recreation facilities are provided within the municipal corporation or township that are primarily intended to provide seasonal leisure time activities for persons other than permanent residents of the municipal corporation or township;

(3) The municipal corporation or township experiences seasonal peaks of employment and demand for government services as a direct result of the seasonal population increase.

(B) For the purpose of providing revenue for its general fund, the legislative authority of a municipal corporation or township, in its ordinance or resolution declaring itself a resort area under this section, may levy a tax on the privilege of engaging in the business of either of the following:

(1) Making sales in the municipal corporation or township, whether wholesale or retail, but including sales of food only to the extent such sales are subject to the tax levied under section 5739.02 of the Revised Code;

(2) Intrastate transportation of passengers or property primarily to or from the municipal corporation or township by a railroad, watercraft, or motor vehicle subject to regulation by the public



utilities commission, except not including transportation of passengers as part of a tour or cruise in which the passengers will stay in the municipal corporation or township for no more than one hour.

The tax is imposed upon and shall be paid by the person making the sales or transporting the passengers or property. The rate of the tax shall be one-half, one, or one and one-half per cent of the person's gross receipts derived from making the sales or transporting the passengers or property to or from the municipal corporation or township.

(C) For the purpose of fostering and developing tourism in a tourism development district designated under section 503.56 or 715.014 of the Revised Code, the legislative authority of a municipal corporation or township, by ordinance or resolution adopted on or before December 31, 2018, may levy a tax on the privilege of engaging in the business of making sales in the tourism development district, whether wholesale or retail, but including sales of food only to the extent such sales are subject to the tax levied under section 5739.02 of the Revised Code.

The tax is imposed upon and shall be paid by the person making the sales. The rate of the tax shall be one-half, one, one and one-half, or two per cent of the person's gross receipts derived from making the sales in the tourism development district.

(D) A tax levied under division (B) or (C) of this section shall take effect on the first day of the month that begins at least sixty days after the effective date of the ordinance or resolution by which it is levied. The legislative authority shall certify copies of the ordinance or resolution to the tax commissioner and treasurer of state within five days after its adoption. In addition, one time each week during the two weeks following the adoption of the ordinance or resolution, the legislative authority shall cause to be published in a newspaper of general circulation in the municipal corporation or township, or as provided in section 7.16 of the Revised Code, a notice explaining the tax and stating the rate of the tax, the date it will take effect, and that persons subject to the tax must register with the tax commissioner under section 5739.103 of the Revised Code.

(E) No more than once a year, and subject to the rates prescribed in division (B) or (C) of this section, the legislative authority of the municipal corporation or township, by ordinance or resolution, may increase or decrease the rate of a tax levied under this section. The legislative authority, by ordinance or resolution, at any time may repeal such a tax. The legislative authority shall certify to the tax commissioner and treasurer of state copies of the ordinance or resolution repealing or changing the rate of the tax within five days after its adoption. In addition, one time each week during the two weeks following the adoption of the ordinance or resolution, the legislative authority shall cause to be published in a newspaper of general circulation in the municipal corporation or township, or as provided in section 7.16 of the Revised Code, notice of the repeal or change.

(F) A person may separately or proportionately bill or invoice a tax levied pursuant to division (B) or (C) of this section to another person.

**Sec. 5739.102.** A person who is liable for a tax levied under section 5739.101 of the Revised Code shall file a return with the tax commissioner showing the person's taxable gross receipts from sales described under division (B)(1) or (2) or (C) of that section. The tax commissioner shall prescribe the form of the return, and the six- or twelve-month reporting period. The person shall file the return on or before the last day of the month following the end of the reporting period prescribed by the commissioner, and shall include with the return payment of the tax for the period. The

remittance shall be made payable to the treasurer of state.

Upon receipt of a return, the tax commissioner shall credit any money included with it to the resort area excise tax fund, which is hereby created. Within forty-five days after the end of each month, the commissioner shall provide for the distribution of all money paid during that month into the resort area excise tax fund to the appropriate municipal corporations and townships, after first subtracting and crediting to the general revenue fund one per cent to cover the costs of administering the excise tax.

If a person liable for the tax fails to file a return or pay the tax as required under this section and the rules of the tax commissioner, the person shall pay an additional charge of the greater of fifty dollars or ten per cent of the tax due for the return period. The additional charge shall be considered revenue arising from the tax levied under section 5739.101 of the Revised Code, and may be collected by assessment in the manner provided in section 5739.13 of the Revised Code. The tax commissioner may remit all or a portion of the charge.

**Sec. 5739.103.** No person shall exercise the privilege of engaging in a business described under division (B)(1) or (2) or (C) of section 5739.101 of the Revised Code in a municipal corporation or township that has imposed a tax under division (B) or (C) of that section without first registering with the tax commissioner. The tax commissioner shall prescribe the form of the registration.

**Sec. 5739.13.** (A) If any vendor collects the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code, and fails to remit the tax to the state as prescribed, or on the sale of a motor vehicle, watercraft, or outboard motor required to be titled, fails to remit payment to a clerk of a court of common pleas as provided in section 1548.06 or 4505.06 of the Revised Code, the vendor shall be personally liable for any tax collected and not remitted. The tax commissioner may make an assessment against such vendor based upon any information in the commissioner's possession.

If any vendor fails to collect the tax or any consumer fails to pay the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code, on any transaction subject to the tax, the vendor or consumer shall be personally liable for the amount of the tax applicable to the transaction. The commissioner may make an assessment against either the vendor or consumer, as the facts may require, based upon any information in the commissioner's possession.

An assessment against a vendor when the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code has not been collected or paid, shall not discharge the purchaser's or consumer's liability to reimburse the vendor for the tax applicable to such transaction.

An assessment issued against either, pursuant to this section, shall not be considered an election of remedies, nor a bar to an assessment against the other for the tax applicable to the same transaction, provided that no assessment shall be issued against any person for the tax due on a particular transaction if the tax on that transaction actually has been paid by another.

The commissioner may make an assessment against any vendor who fails to file a return or remit the proper amount of tax required by this chapter, or against any consumer who fails to pay the proper amount of tax required by this chapter. When information in the possession of the

commissioner indicates that the amount required to be collected or paid under this chapter is greater than the amount remitted by the vendor or paid by the consumer, the commissioner may audit a sample of the vendor's sales or the consumer's purchases for a representative period, to ascertain the per cent of exempt or taxable transactions or the effective tax rate and may issue an assessment based on the audit. The commissioner shall make a good faith effort to reach agreement with the vendor or consumer in selecting a representative sample.

The commissioner may make an assessment, based on any information in the commissioner's possession, against any person who fails to file a return or remit the proper amount of tax required by section 5739.102 of the Revised Code.

The commissioner may issue an assessment on any transaction for which any tax imposed under this chapter or Chapter 5741. of the Revised Code was due and unpaid on the date the vendor or consumer was informed by an agent of the tax commissioner of an investigation or audit. If the vendor or consumer remits any payment of the tax for the period covered by the assessment after the vendor or consumer was informed of the investigation or audit, the payment shall be credited against the amount of the assessment.

The commissioner shall give the party assessed written notice of the assessment in the manner provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) Unless the party assessed files with the commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment, signed by the party assessed or that party's authorized agent having knowledge of the facts, the assessment becomes final and the amount of the assessment is due from the party assessed and payable to the treasurer of state and remitted to the tax commissioner. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the place of business of the party assessed is located or the county in which the party assessed resides. If the party assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment for the state against the party assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state, county, and transit authority retail sales tax" or, if appropriate, "special judgments for resort area excise tax," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment except as otherwise provided in this chapter.

If the assessment is not paid in its entirety within sixty days after the date the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum

prescribed by section 5703.47 of the Revised Code from the day the tax commissioner issues the assessment until the assessment is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by issuing an assessment under this section.

(D) All money collected by the tax commissioner under this section shall be paid to the treasurer of state, and when paid shall be considered as revenue arising from the taxes imposed by or pursuant to sections 5739.01 to 5739.31 of the Revised Code.

**Sec. 5739.213.**

**Sec. 5741.01.** As used in this chapter:

(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, business trusts, governments, and combinations of individuals of any form.

(B) "Storage" means and includes any keeping or retention in this state for use or other consumption in this state.

(C) "Use" means and includes the exercise of any right or power incidental to the ownership of the thing used. A thing is also "used" in this state if its consumer gives or otherwise distributes it, without charge, to recipients in this state.

(D) "Purchase" means acquired or received for a consideration, whether such acquisition or receipt was effected by a transfer of title, or of possession, or of both, or a license to use or consume; whether such transfer was absolute or conditional, and by whatever means the transfer was effected; and whether the consideration was money, credit, barter, or exchange. Purchase includes production, even though the article produced was used, stored, or consumed by the producer. The transfer of copyrighted motion picture films for exhibition purposes is not a purchase, except such films as are used solely for advertising purposes.

(E) "Seller" means the person from whom a purchase is made, and includes every person engaged in this state or elsewhere in the business of selling tangible personal property or providing a service for storage, use, or other consumption or benefit in this state; and when, in the opinion of the tax commissioner, it is necessary for the efficient administration of this chapter, to regard any salesperson, representative, peddler, or canvasser as the agent of a dealer, distributor, supervisor, or employer under whom the person operates, or from whom the person obtains tangible personal property, sold by the person for storage, use, or other consumption in this state, irrespective of whether or not the person is making such sales on the person's own behalf, or on behalf of such dealer, distributor, supervisor, or employer, the commissioner may regard the person as such agent, and may regard such dealer, distributor, supervisor, or employer as the seller. "Seller" does not include any person to the extent the person provides a communications medium, such as, but not limited to, newspapers, magazines, radio, television, or cable television, by means of which sellers solicit purchases of their goods or services.

(F) "Consumer" means any person who has purchased tangible personal property or has been provided a service for storage, use, or other consumption or benefit in this state. "Consumer" does

not include a person who receives, without charge, tangible personal property or a service.

A person who performs a facility management or similar service contract for a contractee is a consumer of all tangible personal property and services purchased for use in connection with the performance of such contract, regardless of whether title to any such property vests in the contractee. The purchase of such property and services is not subject to the exception for resale under division (E) of section 5739.01 of the Revised Code.

(G)(1) "Price," except as provided in divisions (G)(2) to (6) of this section, has the same meaning as in division (H)(1) of section 5739.01 of the Revised Code.

(2) In the case of watercraft, outboard motors, or new motor vehicles, "price" has the same meaning as in divisions (H)(2) and (3) of section 5739.01 of the Revised Code.

(3) In the case of a nonresident business consumer that purchases and uses tangible personal property outside this state and subsequently temporarily stores, uses, or otherwise consumes such tangible personal property in the conduct of business in this state, the consumer or the tax commissioner may determine the price based on the value of the temporary storage, use, or other consumption, in lieu of determining the price pursuant to division (G)(1) of this section. A price determination made by the consumer is subject to review and redetermination by the commissioner.

(4) In the case of tangible personal property held in this state as inventory for sale or lease, and that is temporarily stored, used, or otherwise consumed in a taxable manner, the price is the value of the temporary use. A price determination made by the consumer is subject to review and redetermination by the commissioner.

(5) In the case of tangible personal property originally purchased and used by the consumer outside this state, and that becomes permanently stored, used, or otherwise consumed in this state more than six months after its acquisition by the consumer, the consumer or the commissioner may determine the price based on the current value of such tangible personal property, in lieu of determining the price pursuant to division (G)(1) of this section. A price determination made by the consumer is subject to review and redetermination by the commissioner.

(6) If a consumer produces tangible personal property for sale and removes that property from inventory for the consumer's own use, the price is the produced cost of that tangible personal property.

(H) "Nexus with this state" means that the seller engages in continuous and widespread solicitation of purchases from residents of this state or otherwise purposefully directs its business activities at residents of this state.

(I)(1) "Substantial nexus with this state" means that the seller has sufficient contact with this state, in accordance with Section 8 of Article I of the Constitution of the United States, to allow the state to require the seller to collect and remit use tax on sales of tangible personal property or services made to consumers in this state.

(2) "Substantial nexus with this state" is presumed to exist when the seller does any of the following:

(a) Uses an office, distribution facility, warehouse, storage facility, or similar place of business within this state, whether operated by the seller or any other person, other than a common carrier acting in its capacity as a common carrier.

(b) Regularly uses employees, agents, representatives, solicitors, installers, repairers,

salespersons, or other persons in this state for the purpose of conducting the business of the seller or either to engage in a business with the same or a similar industry classification as the seller selling a similar product or line of products as the seller, or to use trademarks, service marks, or trade names in this state that are the same or substantially similar to those used by the seller.

(c) Uses any person, other than a common carrier acting in its capacity as a common carrier, in this state for any of the following purposes:

(i) Receiving or processing orders of the seller's goods or services;

(ii) Using that person's employees or facilities in this state to advertise, promote, or facilitate sales by the seller to customers;

(iii) Delivering, installing, assembling, or performing maintenance services for the seller's customers;

(iv) Facilitating the seller's delivery of tangible personal property to customers in this state by allowing the seller's customers to pick up property sold by the seller at an office, distribution facility, warehouse, storage facility, or similar place of business.

(d) Makes regular deliveries of tangible personal property into this state by means other than common carrier.

(e) Has an affiliated person that has substantial nexus with this state.

(f) Owns tangible personal property that is rented or leased to a consumer in this state, or offers tangible personal property, on approval, to consumers in this state.

(g) Enters into an agreement with one or more residents of this state under which the resident, for a commission or other consideration, directly or indirectly refers potential customers to the seller, whether by a link on a web site, an in-person oral presentation, telemarketing, or otherwise, provided the cumulative gross receipts from sales to consumers referred to the seller by all such residents exceeded ten thousand dollars during the preceding twelve months.

(h) Uses in-state software to sell or lease taxable tangible personal property or services to consumers, provided the seller has gross receipts in excess of five hundred thousand dollars in the current or preceding calendar year from the sale of tangible personal property for storage, use, or consumption in this state or from providing services the benefit of which is realized in this state.

(i) Provides or enters into an agreement with another person to provide a content distribution network in this state to accelerate or enhance the delivery of the seller's web site to consumers, provided the seller has gross receipts in excess of five hundred thousand dollars in the current or preceding calendar year from the sale of tangible personal property for storage, use, or consumption in this state or from providing services the benefit of which is realized in this state.

(3) A seller presumed to have substantial nexus with this state under divisions (I)(2)(a) to (f), (h), and (i) of this section may rebut that presumption by demonstrating that activities described in any of those divisions that are conducted by a person in this state on the seller's behalf are not significantly associated with the seller's ability to establish or maintain a market in this state for the seller's sales.

(4) A seller presumed to have substantial nexus with this state under division (I)(2)(g) of this section may rebut that presumption by submitting proof that each resident engaged by the seller as described in that division did not engage in any activity within this state during the preceding twelve months that was significantly associated with the seller's ability to establish or maintain the seller's

market in this state during the preceding twelve months. Such proof may consist of sworn written statements from all the residents with whom the seller has an agreement stating that the resident did not engage in any solicitation in this state on behalf of the seller during the preceding twelve months if such statements are provided and obtained in good faith.

(5) A seller that does not have substantial nexus with this state, and any affiliated person of the seller, before selling or leasing tangible personal property or services to a state agency, shall register with the tax commissioner in the same manner as a seller described in division (A)(1) of section 5741.17 of the Revised Code.

(6) As used in division (I) of this section:

(a) "Affiliated person" means any person that is a member of the same controlled group of corporations as the seller or any other person that, notwithstanding the form of organization, bears the same ownership relationship to the seller as a corporation that is a member of the same controlled group of corporations.

(b) "Controlled group of corporations" has the same meaning as in section 1563(a) of the Internal Revenue Code.

(c) "State agency" has the same meaning as in section 1.60 of the Revised Code.

(d) "In-state software" means computer software, as that term is defined in section 5739.01 of the Revised Code, that is stored on property in this state or is distributed within this state for the purpose of facilitating a seller's sales.

(e) "Content delivery network" means a system of distributed servers that deliver web sites and other web content to a user based on the geographic location of the user, the origin of the web site or web content, and a content delivery server.

(J) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county which is a transit authority, the fiscal officer of the county transit board appointed pursuant to section 306.03 of the Revised Code or, if the board of county commissioners operates the county transit system, the county auditor.

(K) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county which is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(L) "Transit authority" means a regional transit authority created pursuant to section 306.31 of the Revised Code or a county in which a county transit system is created pursuant to section 306.01 of the Revised Code. For the purposes of this chapter, a transit authority must extend to at least the entire area of a single county. A transit authority which includes territory in more than one county must include all the area of the most populous county which is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(M) "Providing a service" has the same meaning as in section 5739.01 of the Revised Code.

(N) "Other consumption" includes receiving the benefits of a service.

(O) "Lease" or "rental" has the same meaning as in section 5739.01 of the Revised Code.

(P) "Certified service provider" has the same meaning as in section 5740.01 of the Revised

Code.

(Q) "Remote sale" means a sale for which the seller could not be legally required to pay, collect, or remit a tax imposed under this chapter or Chapter 5739. of the Revised Code, unless otherwise provided by the laws of the United States.

(R) "Remote seller" means a seller that lacks substantial nexus with this state but is required to register with the tax commissioner under section 5741.17 of the Revised Code pursuant to federal law authorizing states to require such sellers to register, collect, and remit use tax. A seller that is not required to register with the commissioner under division (A) of section 5741.17 of the Revised Code but registers voluntarily under division (B) of that section is not a "remote seller." A seller that registers with the commissioner under section 5741.17 of the Revised Code after the effective date of any federal law that authorizes states to require sellers that lack substantial nexus with the state to register, collect, and remit use tax is presumed to be a "remote seller." The seller or the commissioner may rebut this presumption with evidence that the seller has substantial nexus with this state.

(S) "Remote small seller" means a remote seller that has gross annual receipts from remote sales in the United States not exceeding one million dollars for the preceding calendar year. For the purposes of determining whether a person is a small remote seller, the sales of all persons related within the meaning of subsection (b) or (c) of section 267 or section 707(b)(1) of the Internal Revenue Code shall be aggregated, and persons with one or more ownership relationships shall be aggregated if those relationships were designed with the principal purpose to qualify as a remote small seller.

**Sec. 5741.03.** (A) One hundred per cent of all money deposited into the state treasury under sections 5741.01 to 5741.22 of the Revised Code that is not required to be distributed as provided in division (B) of this section shall be credited to the general revenue fund.

(B) In any case where any county or transit authority has levied a tax or taxes pursuant to section 5741.021, 5741.022, or 5741.023 of the Revised Code, the tax commissioner shall, within forty-five days after the end of each month, determine and certify to the director of budget and management the amount of the proceeds of such tax or taxes from billings and assessments received during that month, or shown on tax returns or reports filed during that month, to be returned to the county or transit authority levying the tax or taxes, which amounts shall be determined in the manner provided in section 5739.21 of the Revised Code. The director of budget and management shall transfer, from the general revenue fund, to the permissive tax distribution fund created by division (B)(1) of section 4301.423 of the Revised Code and to the local sales tax administrative fund created by division (C) of section 5739.21 of the Revised Code, the amounts certified by the tax commissioner. The tax commissioner shall then, on or before the twentieth day of the month in which such certification is made, provide for payment of such respective amounts to the county treasurer or to the fiscal officer of the transit authority levying the tax or taxes. The amount transferred to the local sales tax administrative fund is for use by the tax commissioner in defraying costs the commissioner incurs in administering such taxes levied by a county or transit authority.

(C)(1) Not later than the first day of each January and July following the date remote sellers are first required to register, collect, and remit use tax under this chapter, the tax commissioner and the director of budget and management shall jointly determine the amount of tax imposed by section 5741.02 of the Revised Code and remitted under this chapter by remote sellers during the six-month



period ending on the preceding last day of November and of May, respectively, reduced by any refunds issued during the six-month period to remote sellers from the tax refund fund on account of that tax.

(2) Not later than that last day of each January and July following the date the commissioner and the director make a determination under division (C)(1) of this section, the director of budget and management shall transfer from the general revenue fund to the income tax reduction fund the amount determined under that division. Amounts transferred to the income tax reduction fund under this division shall be included in the determination of the percentage under division (B)(2) of section 131.44 of the Revised Code required to be made by the thirty-first day of July of the calendar year in which the commissioner makes the certifications under this division.

**Sec. 5741.12.** (A) Each seller required by section 5741.17 of the Revised Code to register with the tax commissioner, and any seller authorized by the commissioner to collect the tax imposed by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code is subject to the same requirements and entitled to the same deductions and discount for prompt payments as are vendors under section 5739.12 of the Revised Code, and the same monetary allowances as are vendors under section 5739.06 of the Revised Code. The powers and duties of the commissioner with respect to returns and tax remittances under this section shall be identical with those prescribed in section 5739.12 of the Revised Code.

(B) Every person storing, using, or consuming tangible personal property or receiving the benefit of a service, the storage, use, consumption, or receipt of which is subject to the tax imposed by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code, when such tax was not paid to a seller, shall, on or before the twenty-third day of each month, file with the tax commissioner a return for the preceding month in such form as is prescribed by the commissioner, showing such information as the commissioner deems necessary, and shall pay the tax shown on the return to be due. Remittance shall be made payable to the treasurer of state. The commissioner may require consumers to file returns and pay the tax at other than monthly intervals, if the commissioner determines that such filing is necessary for the efficient administration of the tax. If the commissioner determines that a consumer's tax liability is not such as to merit monthly filing, the commissioner may authorize the consumer to file returns and pay tax at less frequent intervals.

Any consumer required to file a return and pay the tax under this section whose payment for any year equals or exceeds the amount shown in division (A) of section 5741.121 of the Revised Code is subject to the accelerated tax payment requirements in divisions (B) and (C) of that section.

(C) Every person storing, using, or consuming a motor vehicle, watercraft, or outboard motor, the ownership of which must be evidenced by certificate of title, shall file the return required by this section and pay the tax due at or prior to the time of filing an application for certificate of title.

**Sec. 5741.17.** (A)(1) Except as otherwise provided in divisions (A)(2), (3), and (4) of this section, every seller of tangible personal property or services who has substantial nexus with this state shall register with the tax commissioner and supply any information concerning the seller's contacts with this state that may be required by the commissioner.

(2) A seller who is licensed as a vendor pursuant to section 5739.17 of the Revised Code shall not be required to register with the commissioner pursuant to this section if all sales to consumers in this state are made under the authority of the seller's vendor's license.

(3) Unless the seller has substantial nexus with this state pursuant to division (I)(2)(g) of section 5741.01 of the Revised Code, a seller is not required to register under this section if the seller has no contact with this state other than an agency relationship with a person engaged in the business of telemarketing in this state and engaged by the seller exclusively for the purpose of solicitation of customers in other states.

(4) A seller is not required to register under this section if the seller has no contact with this state other than the ownership of property that is located at the facility of a printer with which the seller has contracted for printing and that consists of the final printed product, property that becomes a part of the final printed product, or copy from which the final printed product is produced.

(B) A seller who does not have substantial nexus with this state may voluntarily register with the commissioner. A seller who voluntarily registers with the commissioner under this section is entitled to the same benefits and is subject to the same duties and requirements as a seller required to be registered with the commissioner under this chapter.

The commissioner shall maintain an alphabetical index of all sellers registered under this chapter and records of the use tax reported and paid. Upon request, this information shall be made available to the treasurer of state.

(C) A remote small seller is not required to register under this section.

**Sec. 5743.02.** To provide revenues for the general revenue fund, an excise tax on sales of cigarettes is hereby levied at the rate of eighty mills on each cigarette.

Only one sale of the same article shall be used in computing the amount of tax due.

The treasurer of state shall place to the credit of the tax refund fund created by section 5703.052 of the Revised Code, out of receipts from the tax levied by this section, amounts equal to the refunds certified by the tax commissioner pursuant to section 5743.05 of the Revised Code. The balance of taxes collected under such section, after the credits to the tax refund fund, shall be paid into the general revenue fund.

**Sec. 5743.05.** The tax commissioner shall sell all stamps provided for by section 5743.03 of the Revised Code. The stamps shall be sold at their face value, except the commissioner shall, by rule, authorize the sale of stamps to wholesale dealers in this state, or to wholesale dealers outside this state, at a discount of not less than one and eight-tenths per cent or more than ten per cent of their face value, as a commission for affixing and canceling the stamps.

The commissioner, by rule, shall authorize the delivery of stamps to wholesale dealers in this state and to wholesale dealers outside this state on credit. If such a dealer has not been in good credit standing with this state for five consecutive years preceding the purchase, the commissioner shall require the dealer to file with the commissioner a bond to the state in the amount and in the form prescribed by the commissioner, with surety to the satisfaction of the commissioner, conditioned on payment to the treasurer of state or the commissioner within thirty days or the following twenty-third day of June, whichever comes first for stamps delivered within that time. If such a dealer has been in good credit standing with this state for five consecutive years preceding the purchase, the commissioner shall not require that the dealer file such a bond but shall require payment for the stamps within thirty days after purchase of the stamps or the following twenty-third day of June, whichever comes first. Stamps sold to a dealer not required to file a bond shall be sold at face value. The maximum amount that may be sold on credit to a dealer not required to file a bond shall equal

one hundred ten per cent of the dealer's average monthly purchases over the preceding calendar year. The maximum amount shall be adjusted to reflect any changes in the tax rate and may be adjusted, upon application to the commissioner by the dealer, to reflect changes in the business operations of the dealer. The maximum amount shall be applicable to the period between the first day of July to the following twenty-third day of June. Payment by a dealer not required to file a bond shall be remitted by electronic funds transfer as prescribed by section 5743.051 of the Revised Code. If a dealer not required to file a bond fails to make the payment in full within the required payment period, the commissioner shall not thereafter sell stamps to that dealer until the dealer pays the outstanding amount, including penalty and interest on that amount as prescribed in this chapter, and the commissioner thereafter may require the dealer to file a bond until the dealer is restored to good standing. The commissioner shall limit delivery of stamps on credit to the period running from the first day of July of the fiscal year until the twenty-third day of the following June. Any discount allowed as a commission for affixing and canceling stamps shall be allowed with respect to sales of stamps on credit.

The commissioner shall redeem and pay for any destroyed, unused, or spoiled tax stamps at their net value, and shall refund to wholesale dealers the net amount of state and county taxes paid erroneously or paid on cigarettes that have been sold in interstate or foreign commerce or that have become unsalable, and the net amount of county taxes that were paid on cigarettes that have been sold at retail or for retail sale outside a taxing county.

An application for a refund of tax shall be filed with the commissioner, on the form prescribed by the commissioner for that purpose, within three years from the date the tax stamps are destroyed or spoiled, from the date of the erroneous payment, or from the date that cigarettes on which taxes have been paid have been sold in interstate or foreign commerce or have become unsalable.

On the filing of the application, the commissioner shall determine the amount of refund to which the applicant is entitled, payable from receipts of the state tax, and, if applicable, payable from receipts of a county tax. If the amount is less than that claimed, the commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

If a refund is granted for payment of an illegal or erroneous assessment issued by the department, the refund shall include interest on the amount of the refund from the date of the overpayment. The interest shall be computed at the rate per annum prescribed by section 5703.47 of the Revised Code.

**Sec. 5743.32.** To provide revenue for the general revenue fund of the state, an excise tax is hereby levied on the use, consumption, or storage for consumption of cigarettes by consumers in this state at the rate of eighty mills on each cigarette. The tax shall not apply if the tax levied by section 5743.02 of the Revised Code has been paid.

The money received into the state treasury from the excise tax levied by this section shall be credited to the general revenue fund.

**Sec. 5747.01.** Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as

when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) "Adjusted gross income" or "Ohio adjusted gross income" means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.

(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes.

(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.

(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.

(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made to the extent that the portion was not included in the trust's taxable income for any of the trust's taxable years beginning in 2002 or thereafter. "Undistributed net income of a trust" means the taxable income of the trust increased by (a)(i) the additions to adjusted gross income required under division (A) of this section and (ii) the personal exemptions allowed to the trust pursuant to section 642(b) of the Internal Revenue Code, and decreased by (b)(i) the deductions to adjusted gross income required under division (A) of this section, (ii) the amount of federal income taxes attributable to such income, and (iii) the amount of taxable income that has been included in the adjusted gross income of a beneficiary by reason of a prior accumulation distribution. Any undistributed net income included in the adjusted gross income of a beneficiary shall reduce the undistributed net income of the trust commencing with the earliest years of the accumulation period.

(7) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal adjusted gross income for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(8) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent that the interest or interest equivalent is included in federal adjusted gross income.

(9) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of

public obligations to the extent that the loss has been deducted or the gain has been included in computing federal adjusted gross income.

(10) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions to variable college savings program accounts made or tuition units purchased pursuant to Chapter 3334. of the Revised Code.

(11)(a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for medical care insurance and qualified long-term care insurance for the taxpayer, the taxpayer's spouse, and dependents. No deduction for medical care insurance under division (A)(11)(a) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, or to any taxpayer who is entitled to, or on application would be entitled to, benefits under part A of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of division (A)(11)(a) of this section, "subsidized health plan" means a health plan for which the employer pays any portion of the plan's cost. The deduction allowed under division (A)(11)(a) of this section shall be the net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received during the taxable year.

(b) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income during the taxable year, the amount the taxpayer paid during the taxable year, not compensated for by any insurance or otherwise, for medical care of the taxpayer, the taxpayer's spouse, and dependents, to the extent the expenses exceed seven and one-half per cent of the taxpayer's federal adjusted gross income.

(c) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income, any amount included in federal adjusted gross income under section 105 or not excluded under section 106 of the Internal Revenue Code solely because it relates to an accident and health plan for a person who otherwise would be a "qualifying relative" and thus a "dependent" under section 152 of the Internal Revenue Code but for the fact that the person fails to meet the income and support limitations under section 152(d)(1)(B) and (C) of the Internal Revenue Code.

(d) For purposes of division (A)(11) of this section, "medical care" has the meaning given in section 213 of the Internal Revenue Code, subject to the special rules, limitations, and exclusions set forth therein, and "qualified long-term care" has the same meaning given in section 7702B(c) of the Internal Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) of this section, "dependent" includes a person who otherwise would be a "qualifying relative" and thus a "dependent" under section 152 of the Internal Revenue Code but for the fact that the person fails to meet the income and support limitations under section 152(d)(1)(B) and (C) of the Internal Revenue Code.

(12)(a) Deduct any amount included in federal adjusted gross income solely because the amount represents a reimbursement or refund of expenses that in any year the taxpayer had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable United States department of the treasury regulations. The deduction otherwise allowed under division (A)(12)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio adjusted gross income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio adjusted gross income in any taxable year.

(13) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year;

(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year.

(14) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(14) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.

(15)(a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;

(b) Add the amounts distributed from a medical savings account under division (A)(2) of section 3924.68 of the Revised Code during the taxable year.

(16) Add any amount claimed as a credit under section 5747.059 or 5747.65 of the Revised Code to the extent that such amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A)(17) of this section.

(18) Beginning in taxable year 2001 but not for any taxable year beginning after December 31, 2005, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one hundred thousand dollars, or if the taxpayer is single and has a federal adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for qualified tuition and fees paid to an eligible institution for the taxpayer, the taxpayer's spouse, or any

dependent of the taxpayer, who is a resident of this state and is enrolled in or attending a program that culminates in a degree or diploma at an eligible institution. The deduction may be claimed only to the extent that qualified tuition and fees are not otherwise deducted or excluded for any taxable year from federal or Ohio adjusted gross income. The deduction may not be claimed for educational expenses for which the taxpayer claims a credit under section 5747.27 of the Revised Code.

(19) Add any reimbursement received during the taxable year of any amount the taxpayer deducted under division (A)(18) of this section in any previous taxable year to the extent the amount is not otherwise included in Ohio adjusted gross income.

(20)(a)(i) Subject to divisions (A)(20)(a)(iii), (iv), and (v) of this section, add five-sixths of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code, including the taxpayer's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to a pass-through entity in which the taxpayer has a direct or indirect ownership interest.

(ii) Subject to divisions (A)(20)(a)(iii), (iv), and (v) of this section, add five-sixths of the amount of qualifying section 179 depreciation expense, including the taxpayer's proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any pass-through entity in which the taxpayer has a direct or indirect ownership interest.

(iii) Subject to division (A)(20)(a)(v) of this section, for taxable years beginning in 2012 or thereafter, if the increase in income taxes withheld by the taxpayer is equal to or greater than ten per cent of income taxes withheld by the taxpayer during the taxpayer's immediately preceding taxable year, "two-thirds" shall be substituted for "five-sixths" for the purpose of divisions (A)(20)(a)(i) and (ii) of this section.

(iv) Subject to division (A)(20)(a)(v) of this section, for taxable years beginning in 2012 or thereafter, a taxpayer is not required to add an amount under division (A)(20) of this section if the increase in income taxes withheld by the taxpayer and by any pass-through entity in which the taxpayer has a direct or indirect ownership interest is equal to or greater than the sum of (I) the amount of qualifying section 179 depreciation expense and (II) the amount of depreciation expense allowed to the taxpayer by subsection (k) of section 168 of the Internal Revenue Code, and including the taxpayer's proportionate or distributive shares of such amounts allowed to any such pass-through entities.

(v) If a taxpayer directly or indirectly incurs a net operating loss for the taxable year for federal income tax purposes, to the extent such loss resulted from depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code and by qualifying section 179 depreciation expense, "the entire" shall be substituted for "five-sixths of the" for the purpose of divisions (A)(20)(a)(i) and (ii) of this section.

The tax commissioner, under procedures established by the commissioner, may waive the add-backs related to a pass-through entity if the taxpayer owns, directly or indirectly, less than five per cent of the pass-through entity.

(b) Nothing in division (A)(20) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back required under division (A)(20)(a) of this section is attributable to property generating nonbusiness income or loss allocated under section 5747.20 of the Revised

Code, the add-back shall be situated to the same location as the nonbusiness income or loss generated by the property for the purpose of determining the credit under division (A) of section 5747.05 of the Revised Code. Otherwise, the add-back shall be apportioned, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(d) For the purposes of division (A)(20)(a)(v) of this section, net operating loss carryback and carryforward shall not include the allowance of any net operating loss deduction carryback or carryforward to the taxable year to the extent such loss resulted from depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount.

(e) For the purposes of divisions (A)(20) and (21) of this section:

(i) "Income taxes withheld" means the total amount withheld and remitted under sections 5747.06 and 5747.07 of the Revised Code by an employer during the employer's taxable year.

(ii) "Increase in income taxes withheld" means the amount by which the amount of income taxes withheld by an employer during the employer's current taxable year exceeds the amount of income taxes withheld by that employer during the employer's immediately preceding taxable year.

(iii) "Qualifying section 179 depreciation expense" means the difference between (I) the amount of depreciation expense directly or indirectly allowed to a taxpayer under section 179 of the Internal Revised Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.

(21)(a) If the taxpayer was required to add an amount under division (A)(20)(a) of this section for a taxable year, deduct one of the following:

(i) One-fifth of the amount so added for each of the five succeeding taxable years if the amount so added was five-sixths of qualifying section 179 depreciation expense or depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code;

(ii) One-half of the amount so added for each of the two succeeding taxable years if the amount so added was two-thirds of such depreciation expense;

(iii) One-sixth of the amount so added for each of the six succeeding taxable years if the entire amount of such depreciation expense was so added.

(b) If the amount deducted under division (A)(21)(a) of this section is attributable to an add-back allocated under division (A)(20)(c) of this section, the amount deducted shall be situated to the same location. Otherwise, the add-back shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(c) No deduction is available under division (A)(21)(a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such depreciation results in or increases a federal net operating loss carryback or carryforward. If no such deduction is available for a taxable year, the taxpayer may carry forward the amount not deducted in such taxable year to the next taxable year and add that amount to any deduction otherwise available under division (A)(21)(a) of this section for that next taxable year. The carryforward of amounts not so deducted shall continue until the entire addition required by division (A)(20)(a) of this section has been deducted.

(d) No refund shall be allowed as a result of adjustments made by division (A)(21) of this



section.

(22) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as reimbursement for life insurance premiums under section 5919.31 of the Revised Code.

(23) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as a death benefit paid by the adjutant general under section 5919.33 of the Revised Code.

(24) Deduct, to the extent included in federal adjusted gross income and not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, military pay and allowances received by the taxpayer during the taxable year for active duty service in the United States army, air force, navy, marine corps, or coast guard or reserve components thereof or the national guard. The deduction may not be claimed for military pay and allowances received by the taxpayer while the taxpayer is stationed in this state.

(25) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year and not otherwise compensated for by any other source, the amount of qualified organ donation expenses incurred by the taxpayer during the taxable year, not to exceed ten thousand dollars. A taxpayer may deduct qualified organ donation expenses only once for all taxable years beginning with taxable years beginning in 2007.

For the purposes of division (A)(25) of this section:

(a) "Human organ" means all or any portion of a human liver, pancreas, kidney, intestine, or lung, and any portion of human bone marrow.

(b) "Qualified organ donation expenses" means travel expenses, lodging expenses, and wages and salary forgone by a taxpayer in connection with the taxpayer's donation, while living, of one or more of the taxpayer's human organs to another human being.

(26) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, amounts received by the taxpayer as retired personnel pay for service in the uniformed services or reserve components thereof, or the national guard, or received by the surviving spouse or former spouse of such a taxpayer under the survivor benefit plan on account of such a taxpayer's death. If the taxpayer receives income on account of retirement paid under the federal civil service retirement system or federal employees retirement system, or under any successor retirement program enacted by the congress of the United States that is established and maintained for retired employees of the United States government, and such retirement income is based, in whole or in part, on credit for the taxpayer's uniformed service, the deduction allowed under this division shall include only that portion of such retirement income that is attributable to the taxpayer's uniformed service, to the extent that portion of such retirement income is otherwise included in federal adjusted gross income and is not otherwise deducted under this section. Any amount deducted under division (A)(26) of this section is not included in a taxpayer's adjusted gross income for the purposes of section 5747.055 of the Revised Code. No amount may be deducted under division (A)(26) of this section on the basis of which a credit was claimed under section 5747.055 of the Revised Code.

(27) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year

from the military injury relief fund created in section 5902.05 of the Revised Code.

(28) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received as a veterans bonus during the taxable year from the Ohio department of veterans services as authorized by Section 2r of Article VIII, Ohio Constitution.

(29) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Revised Code.

(30) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, Ohio college opportunity or federal Pell grant amounts received by the taxpayer or the taxpayer's spouse or dependent pursuant to section 3333.122 of the Revised Code or 20 U.S.C. 1070a, et seq., and used to pay room or board furnished by the educational institution for which the grant was awarded at the institution's facilities, including meal plans administered by the institution. For the purposes of this division, receipt of a grant includes the distribution of a grant directly to an educational institution and the crediting of the grant to the enrollee's account with the institution.

(31)(a) For taxable years beginning in 2015, deduct from the portion of an individual's adjusted gross income that is business income, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the lesser of the following amounts:

- (i) Seventy-five per cent of the individual's business income;
- (ii) Ninety-three thousand seven hundred fifty dollars for each spouse if spouses file separate returns under section 5747.08 of the Revised Code or one hundred eighty-seven thousand five hundred dollars for all other individuals.

(b) For taxable years beginning in 2016 or thereafter, deduct from the portion of an individual's adjusted gross income that is business income, to the extent not otherwise deducted or excluded in computing federal adjusted gross income for the taxable year, one hundred twenty-five thousand dollars for each spouse if spouses file separate returns under section 5747.08 of the Revised Code or two hundred fifty thousand dollars for all other individuals.

(32) Deduct, as provided under section 5747.78 of the Revised Code, contributions to ABLE savings accounts made in accordance with sections 113.50 to 113.56 of the Revised Code.

(B) "Business income" means income, including gain or loss, arising from transactions, activities, and sources in the regular course of a trade or business and includes income, gain, or loss from real property, tangible property, and intangible property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation. "Business income" includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill.

(C) "Nonbusiness income" means all income other than business income and may include, but is not limited to, compensation, rents and royalties from real or tangible personal property, capital gains, interest, dividends and distributions, patent or copyright royalties, or lottery winnings, prizes, and awards.

(D) "Compensation" means any form of remuneration paid to an employee for personal services.

(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.

(G) "Individual" means any natural person.

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(I) "Resident" means any of the following, provided that division (I)(3) of this section applies only to taxable years of a trust beginning in 2002 or thereafter:

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;

(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I)(2) of this section.

(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.

For the purposes of division (I)(3) of this section:

(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I)(3)(d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:

(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I)(3)(e)(i) or (ii) of this section;

(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying beneficiaries is domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year;

(iii) A person who was domiciled in this state for the purposes of this chapter when the trust document or instrument or part of the trust document or instrument became irrevocable, but only if at least one of the trust's qualifying beneficiaries is a resident domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year. If a trust document or instrument became irrevocable upon the death of a person who at the time of death was domiciled in this state for purposes of this chapter, that person is a person described in division (I)(3)(a)(iii) of this section.

(b) A trust is irrevocable to the extent that the transferor is not considered to be the owner of the net assets of the trust under sections 671 to 678 of the Internal Revenue Code.

(c) With respect to a trust other than a charitable lead trust, "qualifying beneficiary" has the same meaning as "potential current beneficiary" as defined in section 1361(e)(2) of the Internal Revenue Code, and with respect to a charitable lead trust "qualifying beneficiary" is any current, future, or contingent beneficiary, but with respect to any trust "qualifying beneficiary" excludes a

person or a governmental entity or instrumentality to any of which a contribution would qualify for the charitable deduction under section 170 of the Internal Revenue Code.

(d) For the purposes of division (I)(3)(a) of this section, the extent to which a trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred directly or indirectly, in whole or in part, to the trust by any of the sources enumerated in that division shall be ascertained by multiplying the fair market value of the trust's assets, net of related liabilities, by the qualifying ratio, which shall be computed as follows:

(i) The first time the trust receives assets, the numerator of the qualifying ratio is the fair market value of those assets at that time, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the qualifying ratio is the fair market value of all the trust's assets at that time, net of any related liabilities.

(ii) Each subsequent time the trust receives assets, a revised qualifying ratio shall be computed. The numerator of the revised qualifying ratio is the sum of (1) the fair market value of the trust's assets immediately prior to the subsequent transfer, net of any related liabilities, multiplied by the qualifying ratio last computed without regard to the subsequent transfer, and (2) the fair market value of the subsequently transferred assets at the time transferred, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the revised qualifying ratio is the fair market value of all the trust's assets immediately after the subsequent transfer, net of any related liabilities.

(iii) Whether a transfer to the trust is by or from any of the sources enumerated in division (I)(3)(a) of this section shall be ascertained without regard to the domicile of the trust's beneficiaries.

(e) For the purposes of division (I)(3)(a)(i) of this section:

(i) A trust is described in division (I)(3)(e)(i) of this section if the trust is a testamentary trust and the testator of that testamentary trust was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(ii) A trust is described in division (I)(3)(e)(ii) of this section if the transfer is a qualifying transfer described in any of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an irrevocable inter vivos trust, and at least one of the trust's qualifying beneficiaries is domiciled in this state for purposes of this chapter during all or some portion of the trust's current taxable year.

(f) For the purposes of division (I)(3)(e)(ii) of this section, a "qualifying transfer" is a transfer of assets, net of any related liabilities, directly or indirectly to a trust, if the transfer is described in any of the following:

(i) The transfer is made to a trust, created by the decedent before the decedent's death and while the decedent was domiciled in this state for the purposes of this chapter, and, prior to the death of the decedent, the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(ii) The transfer is made to a trust to which the decedent, prior to the decedent's death, had directly or indirectly transferred assets, net of any related liabilities, while the decedent was domiciled in this state for the purposes of this chapter, and prior to the death of the decedent the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(iii) The transfer is made on account of a contractual relationship existing directly or indirectly between the transferor and either the decedent or the estate of the decedent at any time

prior to the date of the decedent's death, and the decedent was domiciled in this state at the time of death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(iv) The transfer is made to a trust on account of a contractual relationship existing directly or indirectly between the transferor and another person who at the time of the decedent's death was domiciled in this state for purposes of this chapter.

(v) The transfer is made to a trust on account of the will of a testator who was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(vi) The transfer is made to a trust created by or caused to be created by a court, and the trust was directly or indirectly created in connection with or as a result of the death of an individual who, for purposes of the taxes levied under Chapter 5731. of the Revised Code, was domiciled in this state at the time of the individual's death.

(g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state.

(J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year.

(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.

(L) "Return" means the notifications and reports required to be filed pursuant to this chapter for the purpose of reporting the tax due and includes declarations of estimated tax when so required.

(M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter.

(N) "Taxpayer" means any person subject to the tax imposed by section 5747.02 of the Revised Code or any pass-through entity that makes the election under division (D) of section 5747.08 of the Revised Code.

(O) "Dependents" means one of the following:

(1) For taxable years beginning on or after January 1, 2018, and before January 1, 2026, dependents as defined in the Internal Revenue Code;

(2) For all other taxable years, dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.

(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed.

(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:

(1) "Subdivision" means any county, municipal corporation, park district, or township.

(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution.

(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.

(S) "Taxable income" or "Ohio taxable income" applies only to estates and trusts, and means federal taxable income, as defined and used in the Internal Revenue Code, adjusted as follows:

(1) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section:

(a) The net amount is not attributable to the S portion of an electing small business trust and has not been distributed to beneficiaries for the taxable year;

(b) The net amount is attributable to the S portion of an electing small business trust for the taxable year.

(2) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section;

(3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;

(4) Deduct interest or dividends, net of related expenses deducted in computing federal taxable income, on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are exempt from state taxes under the laws of the United States, but only to the extent that such amount is included in federal taxable income and is described in either division (S)(1)(a) or (b) of this section;

(5) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income for the taxable year, had the targeted jobs credit allowed under sections 38, 51, and 52 of the Internal Revenue Code not been in effect, but only to the extent such amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(6) Deduct any interest or interest equivalent, net of related expenses deducted in computing federal taxable income, on public obligations and purchase obligations, but only to the extent that such net amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(7) Add any loss or deduct any gain resulting from sale, exchange, or other disposition of public obligations to the extent that such loss has been deducted or such gain has been included in computing either federal taxable income or income of the S portion of an electing small business trust for the taxable year;

(8) Except in the case of the final return of an estate, add any amount deducted by the taxpayer on both its Ohio estate tax return pursuant to section 5731.14 of the Revised Code, and on its federal income tax return in determining federal taxable income;

(9)(a) Deduct any amount included in federal taxable income solely because the amount represents a reimbursement or refund of expenses that in a previous year the decedent had deducted

as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable treasury regulations. The deduction otherwise allowed under division (S)(9)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer or decedent deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio taxable income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio taxable income in any taxable year, but only to the extent such amount has not been distributed to beneficiaries for the taxable year.

(10) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's taxable income or the decedent's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year.

(b) It does not otherwise reduce the taxpayer's taxable income or the decedent's adjusted gross income for the current or any other taxable year.

(11) Add any amount claimed as a credit under section 5747.059 or 5747.65 of the Revised Code to the extent that the amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal taxable income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction in the taxpayer's federal taxable income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(12) Deduct any amount, net of related expenses deducted in computing federal taxable income, that a trust is required to report as farm income on its federal income tax return, but only if the assets of the trust include at least ten acres of land satisfying the definition of "land devoted exclusively to agricultural use" under section 5713.30 of the Revised Code, regardless of whether the land is valued for tax purposes as such land under sections 5713.30 to 5713.38 of the Revised Code. If the trust is a pass-through entity investor, section 5747.231 of the Revised Code applies in ascertaining if the trust is eligible to claim the deduction provided by division (S)(12) of this section in connection with the pass-through entity's farm income.

Except for farm income attributable to the S portion of an electing small business trust, the deduction provided by division (S)(12) of this section is allowed only to the extent that the trust has not distributed such farm income. Division (S)(12) of this section applies only to taxable years of a trust beginning in 2002 or thereafter.

(13) Add the net amount of income described in section 641(c) of the Internal Revenue Code to the extent that amount is not included in federal taxable income.

(14) Add or deduct the amount the taxpayer would be required to add or deduct under division (A)(20) or (21) of this section if the taxpayer's Ohio taxable income were computed in the same manner as an individual's Ohio adjusted gross income is computed under this section. In the case of a trust, division (S)(14) of this section applies only to any of the trust's taxable years beginning in 2002 or thereafter.

(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(V) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or equity investor in that pass-through entity.

(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.

(Y) "Month" means a calendar month.

(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year.

(AA)(1) "Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post-secondary institution located in this state that possesses a certificate of authorization issued by the chancellor of higher education pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code.

(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years of post-secondary education. If the individual is a part-time student, "qualified tuition and fees" includes tuition and fees paid for the academic equivalent of the first two years of post-secondary education during a maximum of five taxable years, not exceeding a total of five thousand dollars. "Qualified tuition and fees" does not include:

(a) Expenses for any course or activity involving sports, games, or hobbies unless the course or activity is part of the individual's degree or diploma program;

(b) The cost of books, room and board, student activity fees, athletic fees, insurance expenses, or other expenses unrelated to the individual's academic course of instruction;

(c) Tuition, fees, or other expenses paid or reimbursed through an employer, scholarship, grant in aid, or other educational benefit program.

(BB)(1) "Modified business income" means the business income included in a trust's Ohio taxable income after such taxable income is first reduced by the qualifying trust amount, if any.

(2) "Qualifying trust amount" of a trust means capital gains and losses from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, a qualifying investee to the extent included in the trust's Ohio taxable income, but only if the following requirements are satisfied:

(a) The book value of the qualifying investee's physical assets in this state and everywhere, as of the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, is available to the trust.

(b) The requirements of section 5747.011 of the Revised Code are satisfied for the trust's



taxable year in which the trust recognizes the gain or loss.

Any gain or loss that is not a qualifying trust amount is modified business income, qualifying investment income, or modified nonbusiness income, as the case may be.

(3) "Modified nonbusiness income" means a trust's Ohio taxable income other than modified business income, other than the qualifying trust amount, and other than qualifying investment income, as defined in section 5747.012 of the Revised Code, to the extent such qualifying investment income is not otherwise part of modified business income.

(4) "Modified Ohio taxable income" applies only to trusts, and means the sum of the amounts described in divisions (BB)(4)(a) to (c) of this section:

(a) The fraction, calculated under section 5747.013, and applying section 5747.231 of the Revised Code, multiplied by the sum of the following amounts:

(i) The trust's modified business income;

(ii) The trust's qualifying investment income, as defined in section 5747.012 of the Revised Code, but only to the extent the qualifying investment income does not otherwise constitute modified business income and does not otherwise constitute a qualifying trust amount.

(b) The qualifying trust amount multiplied by a fraction, the numerator of which is the sum of the book value of the qualifying investee's physical assets in this state on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount, and the denominator of which is the sum of the book value of the qualifying investee's total physical assets everywhere on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount. If, for a taxable year, the trust recognizes a qualifying trust amount with respect to more than one qualifying investee, the amount described in division (BB)(4)(b) of this section shall equal the sum of the products so computed for each such qualifying investee.

(c)(i) With respect to a trust or portion of a trust that is a resident as ascertained in accordance with division (I)(3)(d) of this section, its modified nonbusiness income.

(ii) With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the amount of its modified nonbusiness income satisfying the descriptions in divisions (B)(2) to (5) of section 5747.20 of the Revised Code, except as otherwise provided in division (BB)(4)(c)(ii) of this section. With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the trust's portion of modified nonbusiness income recognized from the sale, exchange, or other disposition of a debt interest in or equity interest in a section 5747.212 entity, as defined in section 5747.212 of the Revised Code, without regard to division (A) of that section, shall not be allocated to this state in accordance with section 5747.20 of the Revised Code but shall be apportioned to this state in accordance with division (B) of section 5747.212 of the Revised Code without regard to division (A) of that section.

If the allocation and apportionment of a trust's income under divisions (BB)(4)(a) and (c) of this section do not fairly represent the modified Ohio taxable income of the trust in this state, the alternative methods described in division (C) of section 5747.21 of the Revised Code may be applied in the manner and to the same extent provided in that section.

(5)(a) Except as set forth in division (BB)(5)(b) of this section, "qualifying investee" means a

person in which a trust has an equity or ownership interest, or a person or unit of government the debt obligations of either of which are owned by a trust. For the purposes of division (BB)(2)(a) of this section and for the purpose of computing the fraction described in division (BB)(4)(b) of this section, all of the following apply:

(i) If the qualifying investee is a member of a qualifying controlled group on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, then "qualifying investee" includes all persons in the qualifying controlled group on such last day.

(ii) If the qualifying investee, or if the qualifying investee and any members of the qualifying controlled group of which the qualifying investee is a member on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, separately or cumulatively own, directly or indirectly, on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount, more than fifty per cent of the equity of a pass-through entity, then the qualifying investee and the other members are deemed to own the proportionate share of the pass-through entity's physical assets which the pass-through entity directly or indirectly owns on the last day of the pass-through entity's calendar or fiscal year ending within or with the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount.

(iii) For the purposes of division (BB)(5)(a)(iii) of this section, "upper level pass-through entity" means a pass-through entity directly or indirectly owning any equity of another pass-through entity, and "lower level pass-through entity" means that other pass-through entity.

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity directly or indirectly owns on the last day of the lower level pass-through entity's calendar or fiscal year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity directly and indirectly owns less than fifty per cent of the equity of the lower level pass-through entity on each day of the upper level pass-through entity's calendar or fiscal year in which or with which ends the calendar or fiscal year of the lower level pass-through entity and if, based upon clear and convincing evidence, complete information about the location and cost of the physical assets of the lower pass-through entity is not available to the upper level pass-through entity, then solely for purposes of ascertaining if a gain or loss constitutes a qualifying trust amount, the upper level pass-through entity shall be deemed as owning no equity of the lower level pass-through entity for each day during the upper level pass-through entity's calendar or fiscal year in which or with which ends the lower level pass-through entity's calendar or fiscal year. Nothing in division (BB)(5)(a)(iii) of this section shall be construed to provide for any deduction or exclusion in computing any trust's Ohio taxable income.

(b) With respect to a trust that is not a resident for the taxable year and with respect to a part of a trust that is not a resident for the taxable year, "qualifying investee" for that taxable year does not include a C corporation if both of the following apply:

(i) During the taxable year the trust or part of the trust recognizes a gain or loss from the sale,

exchange, or other disposition of equity or ownership interests in, or debt obligations of, the C corporation.

(ii) Such gain or loss constitutes nonbusiness income.

(6) "Available" means information is such that a person is able to learn of the information by the due date plus extensions, if any, for filing the return for the taxable year in which the trust recognizes the gain or loss.

(CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.

(DD) "Related member" has the same meaning as in section 5733.042 of the Revised Code.

(EE)(1) For the purposes of division (EE) of this section:

(a) "Qualifying person" means any person other than a qualifying corporation.

(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:

(i) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year;

(ii) A subsidiary that is wholly owned by any corporation that has made an election under subchapter S, chapter one, subtitle A of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year.

(2) For the purposes of this chapter, unless expressly stated otherwise, no qualifying person indirectly owns any asset directly or indirectly owned by any qualifying corporation.

(FF) For purposes of this chapter and Chapter 5751. of the Revised Code:

(1) "Trust" does not include a qualified pre-income tax trust.

(2) A "qualified pre-income tax trust" is any pre-income tax trust that makes a qualifying pre-income tax trust election as described in division (FF)(3) of this section.

(3) A "qualifying pre-income tax trust election" is an election by a pre-income tax trust to subject to the tax imposed by section 5751.02 of the Revised Code the pre-income tax trust and all pass-through entities of which the trust owns or controls, directly, indirectly, or constructively through related interests, five per cent or more of the ownership or equity interests. The trustee shall notify the tax commissioner in writing of the election on or before April 15, 2006. The election, if timely made, shall be effective on and after January 1, 2006, and shall apply for all tax periods and tax years until revoked by the trustee of the trust.

(4) A "pre-income tax trust" is a trust that satisfies all of the following requirements:

(a) The document or instrument creating the trust was executed by the grantor before January 1, 1972;

(b) The trust became irrevocable upon the creation of the trust; and

(c) The grantor was domiciled in this state at the time the trust was created.

(GG) "Uniformed services" has the same meaning as in 10 U.S.C. 101.

(HH) "Taxable business income" means the amount by which an individual's business income that is included in federal adjusted gross income exceeds the amount of business income the individual is authorized to deduct under division (A)(31) of this section for the taxable year.

**Sec. 5747.02.** (A) For the purpose of providing revenue for the support of schools and local

government functions, to provide relief to property taxpayers, to provide revenue for the general revenue fund, and to meet the expenses of administering the tax levied by this chapter, there is hereby levied on every individual, trust, and estate residing in or earning or receiving income in this state, on every individual, trust, and estate earning or receiving lottery winnings, prizes, or awards pursuant to Chapter 3770. of the Revised Code, on every individual, trust, and estate earning or receiving winnings on casino gaming, and on every individual, trust, and estate otherwise having nexus with or in this state under the Constitution of the United States, an annual tax measured as prescribed in divisions (A)(1) to (4) of this section.

(1) In the case of trusts, the tax imposed by this section shall be measured by modified Ohio taxable income under division (D) of this section and levied in the same amount as the tax is imposed on estates as prescribed in division (A)(2) of this section.

(2) In the case of estates, the tax imposed by this section shall be measured by Ohio taxable income and levied at the rate of seven thousand four hundred twenty-five ten-thousandths per cent for the first ten thousand five hundred dollars of such income and, for income in excess of that amount, at the same rates prescribed in division (A)(3) of this section for individuals.

(3) In the case of individuals, for taxable years beginning in 2017 or thereafter, the tax imposed by this section on income other than taxable business income shall be measured by Ohio adjusted gross income, less taxable business income and less an exemption for the taxpayer, the taxpayer's spouse, and each dependent as provided in section 5747.025 of the Revised Code. If the balance thus obtained is equal to or less than ten thousand five hundred dollars, no tax shall be imposed on that balance. If the balance thus obtained is greater than ten thousand five hundred dollars, the tax is hereby levied as follows:

OHIO ADJUSTED GROSS  
INCOME LESS TAXABLE  
BUSINESS INCOME AND EXEMPTIONS  
(INDIVIDUALS)  
OR  
MODIFIED OHIO  
TAXABLE INCOME (TRUSTS)  
OR  
OHIO TAXABLE INCOME (ESTATES)      TAX

More than \$10,500 but \$77.96 plus 1.980% of the amount  
not more than \$15,800 in excess of \$10,500

More than \$15,800 but \$182.90 plus 2.476% of the amount  
not more than \$21,100 in excess of \$15,800

More than \$21,100 but \$314.13 plus 2.969% of the amount

not more than \$42,100 in excess of \$21,100

More than \$42,100 but \$937.62 plus 3.465% of the amount  
not more than \$84,200 in excess of \$42,100

More than \$84,200 but \$2,396.39 plus 3.960% of the amount  
not more than \$105,300 in excess of \$84,200

More than \$105,300 but \$3,231.95 plus 4.597% of the amount  
not more than \$210,600 in excess of \$105,300

More than \$210,600 \$8,072.59 plus 4.997% of the amount  
in excess of \$210,600

(4)(a) In the case of individuals, for taxable years beginning in 2016 or thereafter, the tax imposed by this section on taxable business income shall equal three per cent of the result obtained by subtracting any amount allowed under division (A)(4)(b) of this section from the individual's taxable business income.

(b) If the exemptions allowed to an individual under division (A)(3) of this section exceed the taxpayer's Ohio adjusted gross income less taxable business income, the excess shall be deducted from taxable business income before computing the tax under division (A)(4)(a) of this section.

(5) Except as otherwise provided in this division, in August of each year, the tax commissioner shall make a new adjustment to the income amounts prescribed in divisions (A)(2) and (3) of this section by multiplying the percentage increase in the gross domestic product deflator computed that year under section 5747.025 of the Revised Code by each of the income amounts resulting from the adjustment under this division in the preceding year, adding the resulting product to the corresponding income amount resulting from the adjustment in the preceding year, and rounding the resulting sum to the nearest multiple of fifty dollars. The tax commissioner also shall recompute each of the tax dollar amounts to the extent necessary to reflect the new adjustment of the income amounts. To recompute the tax dollar amount corresponding to the lowest tax rate in division (A)(3) of this section, the commissioner shall multiply the tax rate prescribed in division (A)(2) of this section by the income amount specified in that division and as adjusted according to this paragraph. The rates of taxation shall not be adjusted.

The adjusted amounts apply to taxable years beginning in the calendar year in which the adjustments are made and to taxable years beginning in each ensuing calendar year until a calendar year in which a new adjustment is made pursuant to this division. The tax commissioner shall not make a new adjustment in any year in which the amount resulting from the adjustment would be less than the amount resulting from the adjustment in the preceding year.

(B) If the director of budget and management makes a certification to the tax commissioner under division (B) of section 131.44 of the Revised Code, the amount of tax as determined under divisions (A)(1) to (3) of this section shall be reduced by the percentage prescribed in that certification for taxable years beginning in the calendar year in which that certification is made.

(C) The levy of this tax on income does not prevent a municipal corporation, a joint economic development zone created under section 715.691, or a joint economic development district created under section 715.70, 715.71, or 715.72 of the Revised Code from levying a tax on income.

(D) This division applies only to taxable years of a trust beginning in 2002 or thereafter.

(1) The tax imposed by this section on a trust shall be computed by multiplying the Ohio modified taxable income of the trust by the rates prescribed by division (A) of this section.

(2) A resident trust may claim a credit against the tax computed under division (D) of this section equal to the lesser of (a) the tax paid to another state or the District of Columbia on the resident trust's modified nonbusiness income, other than the portion of the resident trust's nonbusiness income that is qualifying investment income as defined in section 5747.012 of the Revised Code, or (b) the effective tax rate, based on modified Ohio taxable income, multiplied by the resident trust's modified nonbusiness income other than the portion of the resident trust's nonbusiness income that is qualifying investment income. The credit applies before any other applicable credits.

(3) The credits enumerated in divisions (A)(1) to (9) and (A)(18) to (20) of section 5747.98 of the Revised Code do not apply to a trust subject to division (D) of this section. Any credits enumerated in other divisions of section 5747.98 of the Revised Code apply to a trust subject to division (D) of this section. To the extent that the trust distributes income for the taxable year for which a credit is available to the trust, the credit shall be shared by the trust and its beneficiaries. The tax commissioner and the trust shall be guided by applicable regulations of the United States treasury regarding the sharing of credits.

(E) For the purposes of this section, "trust" means any trust described in Subchapter J of Chapter 1 of the Internal Revenue Code, excluding trusts that are not irrevocable as defined in division (I)(3)(b) of section 5747.01 of the Revised Code and that have no modified Ohio taxable income for the taxable year, charitable remainder trusts, qualified funeral trusts and preneed funeral contract trusts established pursuant to sections 4717.31 to 4717.38 of the Revised Code that are not qualified funeral trusts, endowment and perpetual care trusts, qualified settlement trusts and funds, designated settlement trusts and funds, and trusts exempted from taxation under section 501(a) of the Internal Revenue Code.

(F) Nothing in division (A)(3) of this section shall prohibit an individual with an Ohio adjusted gross income, less taxable business income and exemptions, of ten thousand five hundred dollars or less from filing a return under this chapter to receive a refund of taxes withheld or to claim any refundable credit allowed under this chapter.

**Sec. 5747.05.** As used in this section, "income tax" includes both a tax on net income and a tax measured by net income.

The following credits shall be allowed against the aggregate income tax liability imposed by section 5747.02 of the Revised Code on individuals and estates:

(A)(1) The amount of tax otherwise due under section 5747.02 of the Revised Code on such portion of the combined adjusted gross income and business income of any nonresident taxpayer that is not allocable or apportionable to this state pursuant to sections 5747.20 to 5747.23 of the Revised Code. The credit provided under this division shall not exceed the total tax due under section 5747.02 of the Revised Code.

(2) The tax commissioner may enter into an agreement with the taxing authorities of any state

or of the District of Columbia that imposes an income tax to provide that compensation paid in this state to a nonresident taxpayer shall not be subject to the tax levied in section 5747.02 of the Revised Code so long as compensation paid in such other state or in the District of Columbia to a resident taxpayer shall likewise not be subject to the income tax of such other state or of the District of Columbia.

(B) The lesser of division (B)(1) or (2) of this section:

(1) The aggregate amount of tax otherwise due under section 5747.02 of the Revised Code on such portion of the combined adjusted gross income and business income of a resident taxpayer that in another state or in the District of Columbia is subjected to an income tax. The credit provided under division (B)(1) of this section shall not exceed the total tax due under section 5747.02 of the Revised Code.

(2) The amount of income tax liability to another state or the District of Columbia on the portion of the combined adjusted gross income and business income of a resident taxpayer that in another state or in the District of Columbia is subjected to an income tax. The credit provided under division (B)(2) of this section shall not exceed the total amount of tax otherwise due under section 5747.02 of the Revised Code.

(3) If the credit provided under division (B) of this section is affected by a change in either the portion of the combined adjusted gross income and business income of a resident taxpayer subjected to an income tax in another state or the District of Columbia or the amount of income tax liability that has been paid to another state or the District of Columbia, the taxpayer shall report the change to the tax commissioner within sixty days of the change in such form as the commissioner requires.

(a) In the case of an underpayment, the report shall be accompanied by payment of any additional tax due as a result of the reduction in credit together with interest on the additional tax and is a return subject to assessment under section 5747.13 of the Revised Code solely for the purpose of assessing any additional tax due under this division, together with any applicable penalty and interest. It shall not reopen the computation of the taxpayer's tax liability under this chapter from a previously filed return no longer subject to assessment except to the extent that such liability is affected by an adjustment to the credit allowed by division (B) of this section.

(b) In the case of an overpayment, an application for refund may be filed under this division within the sixty-day period prescribed for filing the report even if it is beyond the period prescribed in section 5747.11 of the Revised Code if it otherwise conforms to the requirements of such section. An application filed under this division shall only claim refund of overpayments resulting from an adjustment to the credit allowed by division (B) of this section unless it is also filed within the time prescribed in section 5747.11 of the Revised Code. It shall not reopen the computation of the taxpayer's tax liability except to the extent that such liability is affected by an adjustment to the credit allowed by division (B) of this section.

(4) No credit shall be allowed under division (B) of this section:

(a) For income tax paid or accrued to another state or to the District of Columbia if the taxpayer, when computing federal adjusted gross income, has directly or indirectly deducted, or was required to directly or indirectly deduct, the amount of that income tax;

(b) For compensation that is not subject to the income tax of another state or the District of

Columbia as the result of an agreement entered into by the tax commissioner under division (A)(3) of this section; or

(c) For income tax paid or accrued to another state or the District of Columbia if the taxpayer fails to furnish such proof as the tax commissioner shall require that such income tax liability has been paid.

(C) An individual who is a resident for part of a taxable year and a nonresident for the remainder of the taxable year is allowed the credits under divisions (A) and (B) of this section in accordance with rules prescribed by the tax commissioner. In no event shall the same income be subject to both credits.

(D) The credit allowed under division (A) of this section shall be calculated based upon the amount of tax due under section 5747.02 of the Revised Code after subtracting any other credits that precede the credit under that division in the order required under section 5747.98 of the Revised Code. The credit allowed under division (B) of this section shall be calculated based upon the amount of tax due under section 5747.02 of the Revised Code after subtracting any other credits that precede the credit under that division in the order required under section 5747.98 of the Revised Code.

(E)(1) On a joint return filed by a husband and wife, each of whom had adjusted gross income of at least five hundred dollars, exclusive of interest, dividends and distributions, royalties, rent, and capital gains, a credit equal to the lesser of six hundred fifty dollars or the percentage shown in column B that corresponds with the taxpayer's adjusted gross income, less exemptions for the taxable year, of the total amount of tax due after allowing for any other credit that precedes this credit as required under section 5747.98 of the Revised Code:

A.	B.
IF THE ADJUSTED GROSS INCOME,	THE CREDIT FOR THE TAXABLE
LESS EXEMPTIONS, FOR THE	YEAR IS:
TAX YEAR IS:	
\$25,000 or less	20%
More than \$25,000 but not more than \$50,000	15%
More than \$50,000 but not more than \$75,000	10%
More than \$75,000	5%

(2) The credit shall be claimed in the order required under section 5747.98 of the Revised Code.

(F) No claim for credit under this section shall be allowed unless the claimant furnishes such supporting information as the tax commissioner prescribes by rules.

**Sec. 5747.055.** (A) As used in this section "retirement income" means retirement benefits, annuities, or distributions that are made from or pursuant to a pension, retirement, or profit-sharing plan and that:



(1) In the case of an individual, are received by the individual on account of retirement and are included in the individual's adjusted gross income;

(2) In the case of an estate, are payable to the estate for the benefit of the surviving spouse of the decedent and are included in the estate's taxable income.

(B) A credit shall be allowed against a taxpayer's aggregate tax liability under section 5747.02 of the Revised Code for taxpayers who received retirement income during the taxable year and whose adjusted gross income for the taxable year, less applicable exemptions under section 5747.025 of the Revised Code, as shown on an individual or joint annual return is less than one hundred thousand dollars. Only one such credit shall be allowed for each return, and the amount of the credit shall be computed in accordance with the following schedule:

AMOUNT OF RETIREMENT INCOME RECEIVED THE DURING THE TAXABLE YEAR	CREDIT FOR  TAXABLE YEAR
\$500 or less	\$ 0
Over \$500 but not more than \$1,500	\$ 25
Over \$1,500 but not more than \$3,000	\$ 50
Over \$3,000 but not more than \$5,000	\$ 80
Over \$5,000 but not more than \$8,000	\$130
Over \$8,000	\$200

(C) A taxpayer who received a lump-sum distribution from a pension, retirement, or profit-sharing plan in the taxable year and whose adjusted gross income for the taxable year, less applicable exemptions under section 5747.025 of the Revised Code, as shown on an individual or joint annual return is less than one hundred thousand dollars, may elect to receive a credit under this division in lieu of the credit allowed under division (B) of this section. A taxpayer making such an election is not entitled to the credit authorized under this division or division (B) of this section in subsequent taxable years. A taxpayer electing the credit under this division shall receive a credit for the taxable year against the taxpayer's aggregate tax liability under section 5747.02 of the Revised Code computed as follows:

(1) Divide the amount of retirement income received during the taxable year by the taxpayer's expected remaining life on the last day of the taxable year, as shown by annuity tables issued under the provisions of the Internal Revenue Code and in effect for the calendar year that includes the last day of the taxable year;

(2) Using the quotient thus obtained as the amount of retirement income received during the taxable year, compute the credit for the taxable year in accordance with division (B) of this section;

(3) Multiply the credit thus obtained by the taxpayer's expected remaining life. The product thus obtained shall be the credit under this division for the taxable year.

(D) If the credit under division (C) or (E) of this section exceeds the taxpayer's aggregate tax liability under section 5747.02 of the Revised Code for the taxable year after allowing for any other credit that precedes that credit in the order required under section 5747.98 of the Revised Code, the

taxpayer may elect to receive a credit for each subsequent taxable year. The amount of the credit for each such year shall be computed as follows:

(1) Determine the amount by which the unused credit elected under division (C) or (E) of this section exceeded the total tax due for the taxable year after allowing for any preceding credit in the required order;

(2) Divide the amount of such excess by one year less than the taxpayer's expected remaining life on the last day of the taxable year of the distribution for which the credit was allowed under division (C) or (E) of this section. The quotient thus obtained shall be the credit for each subsequent year.

(E) If subsequent to the receipt of a lump-sum distribution and an election under division (C) of this section an individual receives another lump-sum distribution within one taxable year, and the taxpayer's adjusted gross income for the taxable year, less applicable exemptions under section 5747.025 of the Revised Code, as shown on an individual or joint annual return is less than one hundred thousand dollars, the taxpayer may elect to receive a credit for that taxable year. The credit shall equal the lesser of:

(1) A credit computed in the manner prescribed in division (C) of this section;

(2) The amount of credit, if any, to which the taxpayer would otherwise be entitled for the taxable year under division (D) of this section times the taxpayer's expected remaining life on the last day of the taxable year. A taxpayer who elects to receive a credit under this division is not entitled to a credit under this division or division (B) or (C) of this section for any subsequent year except as provided in division (D) of this section.

(F) A credit equal to fifty dollars for each return required to be filed under section 5747.08 of the Revised Code shall be allowed against a taxpayer's aggregate tax liability under section 5747.02 of the Revised Code for taxpayers sixty-five years of age or older during the taxable year whose adjusted gross income, less applicable exemptions under section 5747.025 of the Revised Code, as shown on an individual or joint annual return is less than one hundred thousand dollars for that taxable year.

(G) A taxpayer sixty-five years of age or older during the taxable year who has received a lump-sum distribution from a pension, retirement, or profit-sharing plan in the taxable year, and whose adjusted gross income, less applicable exemptions under section 5747.025 of the Revised Code, as shown on an individual or joint annual return is less than one hundred thousand dollars for that taxable year may elect to receive a credit under this division in lieu of the credit to which the taxpayer is entitled under division (F) of this section. A taxpayer making such an election shall receive a credit for the taxable year against the taxpayer's aggregate tax liability under section 5747.02 of the Revised Code equal to fifty dollars times the taxpayer's expected remaining life as shown by annuity tables issued under the Internal Revenue Code and in effect for the calendar year that includes the last day of the taxable year. A taxpayer making an election under this division is not entitled to the credit authorized under this division or division (F) of this section in subsequent taxable years.

(H) The credits allowed by this section shall be claimed in the order required under section 5747.98 of the Revised Code. The tax commissioner may require a taxpayer to furnish any information necessary to support a claim for credit under this section, and no credit shall be allowed

unless such information is provided.

**Sec. 5747.058.** (A) A refundable income tax credit granted by the tax credit authority under section 122.17 or former division (B)(2) or (3) of section 122.171 of the Revised Code, as those divisions existed before the effective date of the amendment of this section by H.B. 64 of the 131st general assembly, September 29, 2015, may be claimed under this chapter, in the order required under section 5747.98 of the Revised Code. For purposes of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid to this state on the first day of the taxable year. The refundable credit shall not be claimed for any taxable years ending with or following the calendar year in which a relocation of employment positions occurs in violation of an agreement entered into under section 122.17 or 122.171 of the Revised Code.

(B) A nonrefundable income tax credit granted by the tax credit authority under division (B) of section 122.171 of the Revised Code may be claimed under this chapter, in the order required under section 5747.98 of the Revised Code.

**Sec. 5747.08.** An annual return with respect to the tax imposed by section 5747.02 of the Revised Code and each tax imposed under Chapter 5748. of the Revised Code shall be made by every taxpayer for any taxable year for which the taxpayer is liable for the tax imposed by that section or under that chapter, unless the total credits allowed under division (E) of section 5747.05 and divisions (F) and (G) of section 5747.055 of the Revised Code for the year are equal to or exceed the tax imposed by section 5747.02 of the Revised Code, in which case no return shall be required unless the taxpayer is liable for a tax imposed pursuant to Chapter 5748. of the Revised Code.

(A) If an individual is deceased, any return or notice required of that individual under this chapter shall be made and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

(B) If an individual is unable to make a return or notice required by this chapter, the return or notice required of that individual shall be made and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual.

(C) Returns or notices required of an estate or a trust shall be made and filed by the fiduciary of the estate or trust.

(D)(1)(a) Except as otherwise provided in division (D)(1)(b) of this section, any pass-through entity may file a single return on behalf of one or more of the entity's investors other than an investor that is a person subject to the tax imposed under section 5733.06 of the Revised Code. The single return shall set forth the name, address, and social security number or other identifying number of each of those pass-through entity investors and shall indicate the distributive share of each of those pass-through entity investor's income taxable in this state in accordance with sections 5747.20 to 5747.231 of the Revised Code. Such pass-through entity investors for whom the pass-through entity elects to file a single return are not entitled to the exemption or credit provided for by sections 5747.02 and 5747.022 of the Revised Code; shall calculate the tax before business credits at the highest rate of tax set forth in section 5747.02 of the Revised Code for the taxable year for which the return is filed; and are entitled to only their distributive share of the business credits as defined in division (D)(2) of this section. A single check drawn by the pass-through entity shall accompany the return in full payment of the tax due, as shown on the single return, for such investors, other than

investors who are persons subject to the tax imposed under section 5733.06 of the Revised Code.

(b)(i) A pass-through entity shall not include in such a single return any investor that is a trust to the extent that any direct or indirect current, future, or contingent beneficiary of the trust is a person subject to the tax imposed under section 5733.06 of the Revised Code.

(ii) A pass-through entity shall not include in such a single return any investor that is itself a pass-through entity to the extent that any direct or indirect investor in the second pass-through entity is a person subject to the tax imposed under section 5733.06 of the Revised Code.

(c) Nothing in division (D) of this section precludes the tax commissioner from requiring such investors to file the return and make the payment of taxes and related interest, penalty, and interest penalty required by this section or section 5747.02, 5747.09, or 5747.15 of the Revised Code. Nothing in division (D) of this section precludes such an investor from filing the annual return under this section, utilizing the refundable credit equal to the investor's proportionate share of the tax paid by the pass-through entity on behalf of the investor under division (I) of this section, and making the payment of taxes imposed under section 5747.02 of the Revised Code. Nothing in division (D) of this section shall be construed to provide to such an investor or pass-through entity any additional deduction or credit, other than the credit provided by division (I) of this section, solely on account of the entity's filing a return in accordance with this section. Such a pass-through entity also shall make the filing and payment of estimated taxes on behalf of the pass-through entity investors other than an investor that is a person subject to the tax imposed under section 5733.06 of the Revised Code.

(2) For the purposes of this section, "business credits" means the credits listed in section 5747.98 of the Revised Code excluding the following credits:

- (a) The retirement income credit under division (B) of section 5747.055 of the Revised Code;
- (b) The senior citizen credit under division (F) of section 5747.055 of the Revised Code;
- (c) The lump sum distribution credit under division (G) of section 5747.055 of the Revised Code;
- (d) The dependent care credit under section 5747.054 of the Revised Code;
- (e) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;
- (f) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;
- (g) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;
- (h) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;
- (i) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;
- (j) The joint filing credit under division (E) of section 5747.05 of the Revised Code;
- (k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;
- (l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;
- (m) The earned income tax credit under section 5747.71 of the Revised Code.

(3) The election provided for under division (D) of this section applies only to the taxable year for which the election is made by the pass-through entity. Unless the tax commissioner provides

otherwise, this election, once made, is binding and irrevocable for the taxable year for which the election is made. Nothing in this division shall be construed to provide for any deduction or credit that would not be allowable if a nonresident pass-through entity investor were to file an annual return.

(4) If a pass-through entity makes the election provided for under division (D) of this section, the pass-through entity shall be liable for any additional taxes, interest, interest penalty, or penalties imposed by this chapter if the tax commissioner finds that the single return does not reflect the correct tax due by the pass-through entity investors covered by that return. Nothing in this division shall be construed to limit or alter the liability, if any, imposed on pass-through entity investors for unpaid or underpaid taxes, interest, interest penalty, or penalties as a result of the pass-through entity's making the election provided for under division (D) of this section. For the purposes of division (D) of this section, "correct tax due" means the tax that would have been paid by the pass-through entity had the single return been filed in a manner reflecting the commissioner's findings. Nothing in division (D) of this section shall be construed to make or hold a pass-through entity liable for tax attributable to a pass-through entity investor's income from a source other than the pass-through entity electing to file the single return.

(E) If a husband and wife file a joint federal income tax return for a taxable year, they shall file a joint return under this section for that taxable year, and their liabilities are joint and several, but, if the federal income tax liability of either spouse is determined on a separate federal income tax return, they shall file separate returns under this section.

If either spouse is not required to file a federal income tax return and either or both are required to file a return pursuant to this chapter, they may elect to file separate or joint returns, and, pursuant to that election, their liabilities are separate or joint and several. If a husband and wife file separate returns pursuant to this chapter, each must claim the taxpayer's own exemption, but not both, as authorized under section 5747.02 of the Revised Code on the taxpayer's own return.

(F) Each return or notice required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's social security number. Each return shall be verified by a declaration under the penalties of perjury. The tax commissioner shall prescribe the form that the signature and declaration shall take.

(G) Each return or notice required to be filed under this section shall be made and filed as required by section 5747.04 of the Revised Code, on or before the fifteenth day of April of each year, on forms that the tax commissioner shall prescribe, together with remittance made payable to the treasurer of state in the combined amount of the state and all school district income taxes shown to be due on the form.

Upon good cause shown, the commissioner may extend the period for filing any notice or return required to be filed under this section and may adopt rules relating to extensions. If the extension results in an extension of time for the payment of any state or school district income tax liability with respect to which the return is filed, the taxpayer shall pay at the time the tax liability is paid an amount of interest computed at the rate per annum prescribed by section 5703.47 of the Revised Code on that liability from the time that payment is due without extension to the time of actual payment. Except as provided in section 5747.132 of the Revised Code, in addition to all other

interest charges and penalties, all taxes imposed under this chapter or Chapter 5748. of the Revised Code and remaining unpaid after they become due, except combined amounts due of one dollar or less, bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code until paid or until the day an assessment is issued under section 5747.13 of the Revised Code, whichever occurs first.

If the commissioner considers it necessary in order to ensure the payment of the tax imposed by section 5747.02 of the Revised Code or any tax imposed under Chapter 5748. of the Revised Code, the commissioner may require returns and payments to be made otherwise than as provided in this section.

To the extent that any provision in this division conflicts with any provision in section 5747.026 of the Revised Code, the provision in that section prevails.

(H) The amounts withheld by an employer pursuant to section 5747.06 of the Revised Code, a casino operator pursuant to section 5747.063 of the Revised Code, or a lottery sales agent pursuant to section 5747.064 of the Revised Code shall be allowed to the recipient of the compensation casino winnings, or lottery prize award as credits against payment of the appropriate taxes imposed on the recipient by section 5747.02 and under Chapter 5748. of the Revised Code.

(I) If a pass-through entity elects to file a single return under division (D) of this section and if any investor is required to file the annual return and make the payment of taxes required by this chapter on account of the investor's other income that is not included in a single return filed by a pass-through entity or any other investor elects to file the annual return, the investor is entitled to a refundable credit equal to the investor's proportionate share of the tax paid by the pass-through entity on behalf of the investor. The investor shall claim the credit for the investor's taxable year in which or with which ends the taxable year of the pass-through entity. Nothing in this chapter shall be construed to allow any credit provided in this chapter to be claimed more than once. For the purpose of computing any interest, penalty, or interest penalty, the investor shall be deemed to have paid the refundable credit provided by this division on the day that the pass-through entity paid the estimated tax or the tax giving rise to the credit.

(J) The tax commissioner shall ensure that each return required to be filed under this section includes a box that the taxpayer may check to authorize a paid tax preparer who prepared the return to communicate with the department of taxation about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the department of taxation to contact the preparer concerning questions that arise during the processing of the return and authorizes the preparer only to provide the department with information that is missing from the return, to contact the department for information about the processing of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the department and has shown to the preparer.

(K) The tax commissioner shall permit individual taxpayers to instruct the department of taxation to cause any refund of overpaid taxes to be deposited directly into a checking account, savings account, or an individual retirement account or individual retirement annuity, or preexisting college savings plan or program account offered by the Ohio tuition trust authority under Chapter 3334. of the Revised Code, as designated by the taxpayer, when the taxpayer files the annual return

required by this section electronically.

(L) The tax commissioner may adopt rules to administer this section.

**Sec. 5747.113.** (A) Any taxpayer claiming a refund under section 5747.11 of the Revised Code who wishes to contribute any part of the taxpayer's refund to the natural areas and preserves fund created in section 1517.11 of the Revised Code, the nongame and endangered wildlife fund created in section 1531.26 of the Revised Code, the military injury relief fund created in section 5902.05 of the Revised Code, the Ohio history fund created in section 149.308 of the Revised Code, the breast and cervical cancer project income tax contribution fund created in section 3701.601 of the Revised Code, the wishes for sick children income tax contribution fund created in section 3701.602 of the Revised Code, or all of those funds may designate on the taxpayer's income tax return the amount that the taxpayer wishes to contribute to the fund or funds. A designated contribution is irrevocable upon the filing of the return and shall be made in the full amount designated if the refund found due the taxpayer upon the initial processing of the taxpayer's return, after any deductions including those required by section 5747.12 of the Revised Code, is greater than or equal to the designated contribution. If the refund due as initially determined is less than the designated contribution, the contribution shall be made in the full amount of the refund. The tax commissioner shall subtract the amount of the contribution from the amount of the refund initially found due the taxpayer and shall certify the difference to the director of budget and management and treasurer of state for payment to the taxpayer in accordance with section 5747.11 of the Revised Code. For the purpose of any subsequent determination of the taxpayer's net tax payment, the contribution shall be considered a part of the refund paid to the taxpayer.

(B) The tax commissioner shall provide a space on the income tax return form in which a taxpayer may indicate that the taxpayer wishes to make a donation in accordance with this section. The tax commissioner shall also print in the instructions accompanying the income tax return form a description of the purposes for which the natural areas and preserves fund, the nongame and endangered wildlife fund, the military injury relief fund, the Ohio history fund, the breast and cervical cancer project income tax contribution fund, and the wishes for sick children income tax contribution fund were created and the use of moneys from the income tax refund contribution system established in this section. No person shall designate on the person's income tax return any part of a refund claimed under section 5747.11 of the Revised Code as a contribution to any fund other than the natural areas and preserves fund, the nongame and endangered wildlife fund, the military injury relief fund, the Ohio history fund, the breast and cervical cancer project income tax contribution fund, or the wishes for sick children income tax contribution fund.

(C) The money collected under the income tax refund contribution system established in this section shall be deposited by the tax commissioner into the natural areas and preserves fund, the nongame and endangered wildlife fund, the military injury relief fund, the Ohio history fund, the breast and cervical cancer project income tax contribution fund, and the wishes for sick children income tax contribution fund in the amounts designated on the tax returns.

(D) If the total amount contributed to a fund under this section, as annually determined by the tax commissioner, is less than fifty thousand dollars in each of five consecutive calendar years, no person may designate a contribution to that fund for any taxable year ending after the last day of that five-year period. In such a case, the commissioner shall remove the space dedicated to the fund on

the income tax return and the description of the fund in the instructions accompanying the income tax return.

(E) The general assembly may authorize taxpayer refund contributions to no more than six funds under the income tax refund contribution system established in this section. If the general assembly authorizes income tax refund contributions to a fund other than the natural areas and preserves fund, the nongame and endangered wildlife fund, the military injury relief fund, the Ohio history fund, the breast and cervical cancer project income tax contribution fund, or the wishes for sick children income tax contribution fund, such contributions may be authorized only for a period of two calendar years.

With the exception of the Ohio history fund, the general assembly may authorize income tax refund contributions to a fund only if all the money in the fund will be expended or distributed by a state agency as defined in section 1.60 of the Revised Code.

(F)(1) The director of natural resources, in January of every odd-numbered year, shall report to the general assembly on the effectiveness of the income tax refund contribution system as it pertains to the natural areas and preserves fund and the nongame and endangered wildlife fund. The report shall include the amount of money contributed to each fund in each of the previous five years, the amount of money contributed directly to each fund in addition to or independently of the income tax refund contribution system in each of the previous five years, and the purposes for which the money was expended.

(2) The director of veterans services, the director of the Ohio history connection, and the director of health, in January of every odd-numbered year, each shall report to the general assembly on the effectiveness of the income tax refund contribution system as it pertains to the military injury relief fund, the Ohio history fund, the breast and cervical cancer project income tax contribution fund, and the wishes for sick children income tax contribution fund respectively. The report shall include the amount of money contributed to the fund in each of the previous five years, the amount of money contributed directly to the fund in addition to or independently of the income tax refund contribution system in each of the previous five years, and the purposes for which the money was expended.

**Sec. 5747.21.** (A) This section applies solely for the purposes of computing the credit allowed under division (A) of section 5747.05 of the Revised Code and computing income taxable in this state under division (D) of section 5747.08 of the Revised Code.

(B) Except as otherwise provided under section 5747.212 of the Revised Code, all items of business income and business deduction shall be apportioned to this state by multiplying business income by the fraction calculated under division (B)(2) of section 5733.05 and section 5733.057 of the Revised Code as if the taxpayer's business were a corporation subject to the tax imposed by section 5733.06 of the Revised Code.

(C) If the allocation and apportionment provisions of sections 5747.20 to 5747.23 of the Revised Code or of any rule adopted by the tax commissioner, do not fairly represent the extent of business activity in this state of a taxpayer or pass-through entity, the taxpayer or pass-through entity may request, which request must be in writing accompanying a timely filed return or timely filed amended return, or the tax commissioner may require, in respect of all or any part of the business activity, if reasonable, any one or more of the following:



- (1) Separate accounting;
- (2) The exclusion of one or more factors;
- (3) The inclusion of one or more additional factors which will fairly represent the business activity in this state;
- (4) The employment of any other method to effectuate an equitable allocation and apportionment of such business in this state. An alternative method will be effective only with approval of the tax commissioner.

The tax commissioner may adopt rules in the manner provided by sections 5703.14 and 5747.18 of the Revised Code providing for alternative methods of calculating business income and nonbusiness income applicable to all taxpayers and pass-through entities, to classes of taxpayers and pass-through entities, or only to taxpayers and pass-through entities within a certain industry.

**Sec. 5747.37.** (A) As used in this section:

- (1) "Minor child" means a person under eighteen years of age.
- (2) "Legally adopt" means to adopt a minor child pursuant to Chapter 3107. of the Revised Code, or pursuant to the laws of any other state or nation if such an adoption is recognizable under section 3107.18 of the Revised Code. For the purposes of this section, a minor child is legally adopted when the final decree or order of adoption is issued by the proper court under the laws of the state or nation under which the child is adopted, or, in the case of an interlocutory order of adoption, when the order becomes final under the laws of the state or nation. "Legally adopt" does not include the adoption of a minor child by the child's stepparent.

(B) There is hereby granted a credit against a taxpayer's aggregate tax liability under section 5747.02 of the Revised Code for the legal adoption by a taxpayer of a minor child. The amount of the credit for each minor child legally adopted by the taxpayer shall equal the greater of the following:

- (1) One thousand five hundred dollars;
- (2) The amount of expenses incurred by the taxpayer and the taxpayer's spouse to legally adopt the child, not to exceed ten thousand dollars. For the purposes of this division, expenses incurred to legally adopt a child include expenses described in division (C) of section 3107.055 of the Revised Code.

The taxpayer shall claim the credit for each child beginning with the taxable year in which the child was legally adopted. If the sum of the credit to which the taxpayer would otherwise be entitled under this section is greater than the total tax due under section 5747.02 of the Revised Code for that taxable year after allowing for any other credits that precede the credit under this section in the order required under section 5747.98 of the Revised Code, such excess shall be allowed as a credit in each of the ensuing five taxable years, but the amount of any excess credit allowed in any such taxable year shall be deducted from the balance carried forward to the ensuing taxable year. The credit shall be claimed in the order required under section 5747.98 of the Revised Code. For the purposes of making tax payments under this chapter, taxes equal to the amount of the credit shall be considered to be paid to this state on the first day of the taxable year.

The taxpayer shall provide to the tax commissioner any receipts or other documentation of the expenses incurred to legally adopt the child upon the request of the tax commissioner for the purpose of division (B)(2) of this section.

**Sec. 5747.50.** (A) As used in this section:

(1) "County's proportionate share of the calendar year 2007 LGF and LGRAF distributions" means the percentage computed for the county under division (B)(1)(a) of section 5747.501 of the Revised Code.

(2) "County's proportionate share of the total amount of the local government fund additional revenue formula" means each county's proportionate share of the state's population as determined for and certified to the county for distributions to be made during the current calendar year under division (B)(2)(a) of section 5747.501 of the Revised Code. If prior to the first day of January of the current calendar year the federal government has issued a revision to the population figures reflected in the estimate produced pursuant to division (B)(2)(a) of section 5747.501 of the Revised Code, such revised population figures shall be used for making the distributions during the current calendar year.

(3) "2007 LGF and LGRAF county distribution base available in that month" means the lesser of the amounts described in division (A)(3)(a) and (b) of this section, provided that the amount shall not be less than zero:

(a) The total amount available for distribution to counties from the local government fund during the current month.

(b) The total amount distributed to counties from the local government fund and the local government revenue assistance fund to counties in calendar year 2007 less the total amount distributed to counties under division (B)(1) of this section during previous months of the current calendar year.

(4) "Local government fund additional revenue distribution base available during that month" means the total amount available for distribution to counties during the month from the local government fund, less any amounts to be distributed in that month from the local government fund under division (B)(1) of this section, provided that the local government fund additional revenue distribution base available during that month shall not be less than zero.

(5) "Total amount available for distribution to counties" means the total amount available for distribution from the local government fund during the current month less the total amount available for distribution to municipal corporations during the current month under division (C) of this section.

(B) On or before the tenth day of each month, the tax commissioner shall provide for payment to each county an amount equal to the sum of:

(1) The county's proportionate share of the calendar year 2007 LGF and LGRAF distributions multiplied by the 2007 LGF and LGRAF county distribution base available in that month, provided that if the 2007 LGF and LGRAF county distribution base available in that month is zero, no payment shall be made under division (B)(1) of this section for the month or the remainder of the calendar year; and

(2) The county's proportionate share of the total amount of the local government fund additional revenue formula multiplied by the local government fund additional revenue distribution base available during that month.

Money received into the treasury of a county under this division shall be credited to the undivided local government fund in the treasury of the county on or before the fifteenth day of each month. On or before the twentieth day of each month, the county auditor shall issue warrants against all of the undivided local government fund in the county treasury in the respective amounts allowed

as provided in section 5747.51 of the Revised Code, and the treasurer shall distribute and pay such sums to the subdivision therein.

(C)(1) As used in division (C) of this section:

(a) "Total amount available for distribution to municipalities during the current month" means the difference obtained by subtracting one million dollars from the product obtained by multiplying the total amount available for distribution from the local government fund during the current month by the aggregate municipal share.

(b) "Aggregate municipal share" means the quotient obtained by dividing the total amount distributed directly from the local government fund to municipal corporations during calendar year 2007 by the total distributions from the local government fund and local government revenue assistance fund during calendar year 2007.

(2) On or before the tenth day of each month, the tax commissioner shall provide for payment from the local government fund to each municipal corporation an amount equal to the product derived by multiplying the municipal corporation's percentage of the total amount distributed to all such municipal corporations under this division during calendar year 2007 by the total amount available for distribution to municipal corporations during the current month.

(3) Payments received by a municipal corporation under this division shall be paid into its general fund and may be used for any lawful purpose.

(4) The amount distributed to municipal corporations under this division during any calendar year shall not exceed the amount distributed directly from the local government fund to municipal corporations during calendar year 2007. If that maximum amount is reached during any month, distributions to municipal corporations in that month shall be as provided in divisions (C)(1) and (2) of this section, but no further distributions shall be made to municipal corporations under division (C) of this section during the remainder of the calendar year.

(5) Upon being informed of a municipal corporation's dissolution, the tax commissioner shall cease providing for payments to that municipal corporation under division (C) of this section. The proportionate shares of the total amount available for distribution to each of the remaining municipal corporations under this division shall be increased on a pro rata basis.

The tax commissioner shall reduce payments under division (C) of this section to municipal corporations for which reduced payments are required under section 5747.502 of the Revised Code.

(D) Each municipal corporation which has in effect a tax imposed under Chapter 718. of the Revised Code shall, no later than the thirty-first day of August of each year, certify to the tax commissioner, on a form prescribed by the commissioner, the amount of income tax revenue collected and refunded by such municipal corporation pursuant to such chapter during the preceding calendar year, arranged, when possible, by the type of income from which the revenue was collected or the refund was issued. The municipal corporation shall also report the amount of income tax revenue collected and refunded on behalf of a joint economic development district or a joint economic development zone that levies an income tax administered by the municipal corporation and the amount of such revenue distributed to contracting parties during the preceding calendar year. The tax commissioner may withhold payment of local government fund moneys pursuant to division (C) of this section from any municipal corporation for failure to comply with this reporting requirement.

**Sec. 5747.502.**

**Sec. 5747.51.** (A) On or before the twenty-fifth day of July of each year, the tax commissioner shall make and certify to the county auditor of each county an estimate of the amount of the local government fund to be allocated to the undivided local government fund of each county for the ensuing calendar year, adjusting the total as required to account for subdivisions receiving local government funds under section 5747.502 of the Revised Code.

(B) At each annual regular session of the county budget commission convened pursuant to section 5705.27 of the Revised Code, each auditor shall present to the commission the certificate of the commissioner, the annual tax budget and estimates, and the records showing the action of the commission in its last preceding regular session. The commission, after extending to the representatives of each subdivision an opportunity to be heard, under oath administered by any member of the commission, and considering all the facts and information presented to it by the auditor, shall determine the amount of the undivided local government fund needed by and to be apportioned to each subdivision for current operating expenses, as shown in the tax budget of the subdivision. This determination shall be made pursuant to divisions (C) to (I) of this section, unless the commission has provided for a formula pursuant to section 5747.53 of the Revised Code. The commissioner shall reduce or increase the amount of funds from the undivided local government fund to a subdivision required to receive reduced or increased funds under section 5747.502 of the Revised Code.

Nothing in this section prevents the budget commission, for the purpose of apportioning the undivided local government fund, from inquiring into the claimed needs of any subdivision as stated in its tax budget, or from adjusting claimed needs to reflect actual needs. For the purposes of this section, "current operating expenses" means the lawful expenditures of a subdivision, except those for permanent improvements and except payments for interest, sinking fund, and retirement of bonds, notes, and certificates of indebtedness of the subdivision.

(C) The commission shall determine the combined total of the estimated expenditures, including transfers, from the general fund and any special funds other than special funds established for road and bridge; street construction, maintenance, and repair; state highway improvement; and gas, water, sewer, and electric public utilities operated by a subdivision, as shown in the subdivision's tax budget for the ensuing calendar year.

(D) From the combined total of expenditures calculated pursuant to division (C) of this section, the commission shall deduct the following expenditures, if included in these funds in the tax budget:

(1) Expenditures for permanent improvements as defined in division (E) of section 5705.01 of the Revised Code;

(2) In the case of counties and townships, transfers to the road and bridge fund, and in the case of municipalities, transfers to the street construction, maintenance, and repair fund and the state highway improvement fund;

(3) Expenditures for the payment of debt charges;

(4) Expenditures for the payment of judgments.

(E) In addition to the deductions made pursuant to division (D) of this section, revenues accruing to the general fund and any special fund considered under division (C) of this section from the following sources shall be deducted from the combined total of expenditures calculated pursuant

to division (C) of this section:

(1) Taxes levied within the ten-mill limitation, as defined in section 5705.02 of the Revised Code;

(2) The budget commission allocation of estimated county public library fund revenues to be distributed pursuant to section 5747.48 of the Revised Code;

(3) Estimated unencumbered balances as shown on the tax budget as of the thirty-first day of December of the current year in the general fund, but not any estimated balance in any special fund considered in division (C) of this section;

(4) Revenue, including transfers, shown in the general fund and any special funds other than special funds established for road and bridge; street construction, maintenance, and repair; state highway improvement; and gas, water, sewer, and electric public utilities, from all other sources except those that a subdivision receives from an additional tax or service charge voted by its electorate or receives from special assessment or revenue bond collection. For the purposes of this division, where the charter of a municipal corporation prohibits the levy of an income tax, an income tax levied by the legislative authority of such municipal corporation pursuant to an amendment of the charter of that municipal corporation to authorize such a levy represents an additional tax voted by the electorate of that municipal corporation. For the purposes of this division, any measure adopted by a board of county commissioners pursuant to section 322.02, 4504.02, or 5739.021 of the Revised Code, including those measures upheld by the electorate in a referendum conducted pursuant to section 322.021, 4504.021, or 5739.022 of the Revised Code, shall not be considered an additional tax voted by the electorate.

Subject to division (G) of section 5705.29 of the Revised Code, money in a reserve balance account established by a county, township, or municipal corporation under section 5705.13 of the Revised Code shall not be considered an unencumbered balance or revenue under division (E)(3) or (4) of this section. Money in a reserve balance account established by a township under section 5705.132 of the Revised Code shall not be considered an unencumbered balance or revenue under division (E)(3) or (4) of this section.

If a county, township, or municipal corporation has created and maintains a nonexpendable trust fund under section 5705.131 of the Revised Code, the principal of the fund, and any additions to the principal arising from sources other than the reinvestment of investment earnings arising from such a fund, shall not be considered an unencumbered balance or revenue under division (E)(3) or (4) of this section. Only investment earnings arising from investment of the principal or investment of such additions to principal may be considered an unencumbered balance or revenue under those divisions.

(F) The total expenditures calculated pursuant to division (C) of this section, less the deductions authorized in divisions (D) and (E) of this section, shall be known as the "relative need" of the subdivision, for the purposes of this section.

(G) The budget commission shall total the relative need of all participating subdivisions in the county, and shall compute a relative need factor by dividing the total estimate of the undivided local government fund by the total relative need of all participating subdivisions.

(H) The relative need of each subdivision shall be multiplied by the relative need factor to determine the proportionate share of the subdivision in the undivided local government fund of the

county; provided, that the maximum proportionate share of a county shall not exceed the following maximum percentages of the total estimate of the undivided local government fund governed by the relationship of the percentage of the population of the county that resides within municipal corporations within the county to the total population of the county as reported in the reports on population in Ohio by the department of development as of the twentieth day of July of the year in which the tax budget is filed with the budget commission:

	Percentage share of
Percentage of municipal population within the county:	the county shall not exceed:
Less than forty-one per cent	Sixty per cent
Forty-one per cent or more but less than eighty-one per cent	Fifty per cent
Eighty-one per cent or more	Thirty per cent

Where the proportionate share of the county exceeds the limitations established in this division, the budget commission shall adjust the proportionate shares determined pursuant to this division so that the proportionate share of the county does not exceed these limitations, and it shall increase the proportionate shares of all other subdivisions on a pro rata basis. In counties having a population of less than one hundred thousand, not less than ten per cent shall be distributed to the townships therein.

(I) The proportionate share of each subdivision in the undivided local government fund determined pursuant to division (H) of this section for any calendar year shall not be less than the product of the average of the percentages of the undivided local government fund of the county as apportioned to that subdivision for the calendar years 1968, 1969, and 1970, multiplied by the total amount of the undivided local government fund of the county apportioned pursuant to former section 5735.23 of the Revised Code for the calendar year 1970. For the purposes of this division, the total apportioned amount for the calendar year 1970 shall be the amount actually allocated to the county in 1970 from the state collected intangible tax as levied by section 5707.03 of the Revised Code and distributed pursuant to section 5725.24 of the Revised Code, plus the amount received by the county in the calendar year 1970 pursuant to division (B)(1) of former section 5739.21 of the Revised Code, and distributed pursuant to former section 5739.22 of the Revised Code. If the total amount of the undivided local government fund for any calendar year is less than the amount of the undivided local government fund apportioned pursuant to former section 5739.23 of the Revised Code for the calendar year 1970, the minimum amount guaranteed to each subdivision for that calendar year pursuant to this division shall be reduced on a basis proportionate to the amount by which the amount of the undivided local government fund for that calendar year is less than the amount of the undivided local government fund apportioned for the calendar year 1970.

(J) On the basis of such apportionment, the county auditor shall compute the percentage share of each such subdivision in the undivided local government fund and shall at the same time certify to

the tax commissioner the percentage share of the county as a subdivision. No payment shall be made from the undivided local government fund, except in accordance with such percentage shares.

Within ten days after the budget commission has made its apportionment, whether conducted pursuant to section 5747.51 or 5747.53 of the Revised Code, the auditor shall publish a list of the subdivisions and the amount each is to receive from the undivided local government fund and the percentage share of each subdivision, in a newspaper or newspapers of countywide circulation, and send a copy of such allocation to the tax commissioner.

The county auditor shall also send a copy of such allocation by ordinary or electronic mail to the fiscal officer of each subdivision entitled to participate in the allocation of the undivided local government fund of the county. This copy shall constitute the official notice of the commission action referred to in section 5705.37 of the Revised Code.

All money received into the treasury of a subdivision from the undivided local government fund in a county treasury shall be paid into the general fund and used for the current operating expenses of the subdivision.

If a municipal corporation maintains a municipal university, such municipal university, when the board of trustees so requests the legislative authority of the municipal corporation, shall participate in the money apportioned to such municipal corporation from the total local government fund, however created and constituted, in such amount as requested by the board of trustees, provided such sum does not exceed nine per cent of the total amount paid to the municipal corporation.

If any public official fails to maintain the records required by sections 5747.50 to 5747.55 of the Revised Code or by the rules issued by the tax commissioner, the auditor of state, or the treasurer of state pursuant to such sections, or fails to comply with any law relating to the enforcement of such sections, the local government fund money allocated to the county may be withheld until such time as the public official has complied with such sections or such law or the rules issued pursuant thereto.

**Sec. 5747.53.** (A) As used in this section:

(1) "City, located wholly or partially in the county, with the greatest population" means the city, located wholly or partially in the county, with the greatest population residing in the county; however, if the county budget commission on or before January 1, 1998, adopted an alternative method of apportionment that was approved by the legislative authority of the city, located partially in the county, with the greatest population but not the greatest population residing in the county, "city, located wholly or partially in the county, with the greatest population" means the city, located wholly or partially in the county, with the greatest population whether residing in the county or not, if this alternative meaning is adopted by action of the board of county commissioners and a majority of the boards of township trustees and legislative authorities of municipal corporations located wholly or partially in the county.

(2) "Participating political subdivision" means a municipal corporation or township that satisfies all of the following:

- (a) It is located wholly or partially in the county.
- (b) It is not the city, located wholly or partially in the county, with the greatest population.
- (c) Undivided local government fund moneys are apportioned to it under the county's alternative method or formula of apportionment in the current calendar year.

(B) In lieu of the method of apportionment of the undivided local government fund of the

county provided by section 5747.51 of the Revised Code, the county budget commission may provide for the apportionment of the fund under an alternative method or on a formula basis as authorized by this section. The commissioner shall reduce or increase the amount of funds from the undivided local government fund to a subdivision required to receive reduced or increased funds under section 5747.502 of the Revised Code.

Except as otherwise provided in division (C) of this section, the alternative method of apportionment shall have first been approved by all of the following governmental units: the board of county commissioners; the legislative authority of the city, located wholly or partially in the county, with the greatest population; and a majority of the boards of township trustees and legislative authorities of municipal corporations, located wholly or partially in the county, excluding the legislative authority of the city, located wholly or partially in the county, with the greatest population. In granting or denying approval for an alternative method of apportionment, the board of county commissioners, boards of township trustees, and legislative authorities of municipal corporations shall act by motion. A motion to approve shall be passed upon a majority vote of the members of a board of county commissioners, board of township trustees, or legislative authority of a municipal corporation, shall take effect immediately, and need not be published.

Any alternative method of apportionment adopted and approved under this division may be revised, amended, or repealed in the same manner as it may be adopted and approved. If an alternative method of apportionment adopted and approved under this division is repealed, the undivided local government fund of the county shall be apportioned among the subdivisions eligible to participate in the fund, commencing in the ensuing calendar year, under the apportionment provided in section 5747.52 of the Revised Code, unless the repeal occurs by operation of division (C) of this section or a new method for apportionment of the fund is provided in the action of repeal.

(C) This division applies only in counties in which the city, located wholly or partially in the county, with the greatest population has a population of twenty thousand or less and a population that is less than fifteen per cent of the total population of the county. In such a county, the legislative authorities or boards of township trustees of two or more participating political subdivisions, which together have a population residing in the county that is a majority of the total population of the county, each may adopt a resolution to exclude the approval otherwise required of the legislative authority of the city, located wholly or partially in the county, with the greatest population. All of the resolutions to exclude that approval shall be adopted not later than the first Monday of August of the year preceding the calendar year in which distributions are to be made under an alternative method of apportionment.

A motion granting or denying approval of an alternative method of apportionment under this division shall be adopted by a majority vote of the members of the board of county commissioners and by a majority vote of a majority of the boards of township trustees and legislative authorities of the municipal corporations located wholly or partially in the county, other than the city, located wholly or partially in the county, with the greatest population, shall take effect immediately, and need not be published. The alternative method of apportionment under this division shall be adopted and approved annually, not later than the first Monday of August of the year preceding the calendar year in which distributions are to be made under it. A motion granting approval of an alternative method of apportionment under this division repeals any existing alternative method of apportionment,



effective with distributions to be made from the fund in the ensuing calendar year. An alternative method of apportionment under this division shall not be revised or amended after the first Monday of August of the year preceding the calendar year in which distributions are to be made under it.

(D) In determining an alternative method of apportionment authorized by this section, the county budget commission may include in the method any factor considered to be appropriate and reliable, in the sole discretion of the county budget commission.

(E) The limitations set forth in section 5747.51 of the Revised Code, stating the maximum amount that the county may receive from the undivided local government fund and the minimum amount the townships in counties having a population of less than one hundred thousand may receive from the fund, are applicable to any alternative method of apportionment authorized under this section.

(F) On the basis of any alternative method of apportionment adopted and approved as authorized by this section, as certified by the auditor to the county treasurer, the county treasurer shall make distribution of the money in the undivided local government fund to each subdivision eligible to participate in the fund, and the auditor, when the amount of those shares is in the custody of the treasurer in the amounts so computed to be due the respective subdivisions, shall at the same time certify to the tax commissioner the percentage share of the county as a subdivision. All money received into the treasury of a subdivision from the undivided local government fund in a county treasury shall be paid into the general fund and used for the current operating expenses of the subdivision. If a municipal corporation maintains a municipal university, the university, when the board of trustees so requests the legislative authority of the municipal corporation, shall participate in the money apportioned to the municipal corporation from the total local government fund, however created and constituted, in the amount requested by the board of trustees, provided that amount does not exceed nine per cent of the total amount paid to the municipal corporation.

(G) The actions of the county budget commission taken pursuant to this section are final and may not be appealed to the board of tax appeals, except on the issues of abuse of discretion and failure to comply with the formula.

**Sec. 5747.71.** There is hereby allowed a nonrefundable credit against a taxpayer's aggregate tax liability under section 5747.02 of the Revised Code for a taxpayer who is an "eligible individual" as defined in section 32 of the Internal Revenue Code. The credit shall equal five per cent of the credit allowed on the taxpayer's federal income tax return pursuant to section 32 of the Internal Revenue Code for taxable years beginning in 2013, and ten per cent of the federal credit allowed for taxable years beginning in or after 2014. If the Ohio adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse if the taxpayer and the taxpayer's spouse file a joint return under section 5747.08 of the Revised Code, less applicable exemptions under section 5747.025 of the Revised Code, exceeds twenty thousand dollars, the credit authorized by this section shall not exceed fifty per cent of the aggregate amount of tax otherwise due under section 5747.02 of the Revised Code after deducting any other nonrefundable credits that precede the credit allowed under this section in the order prescribed by section 5747.98 of the Revised Code except for the joint filing credit authorized under division (E) of section 5747.05 of the Revised Code. In all other cases, the credit authorized by this section shall not exceed the aggregate amount of tax otherwise due under section 5747.02 of the Revised Code after deducting any other nonrefundable credits that precede the

credit allowed under this section in the order prescribed by section 5747.98 of the Revised Code.

The credit shall be claimed in the order prescribed by section 5747.98 of the Revised Code.

**Sec. 5747.98.** (A) To provide a uniform procedure for calculating a taxpayer's aggregate tax liability under section 5747.02 of the Revised Code, a taxpayer shall claim any credits to which the taxpayer is entitled in the following order:

- (1) Either the retirement income credit under division (B) of section 5747.055 of the Revised Code or the lump sum retirement income credits under divisions (C), (D), and (E) of that section;
- (2) Either the senior citizen credit under division (F) of section 5747.055 of the Revised Code or the lump sum distribution credit under division (G) of that section;
- (3) The dependent care credit under section 5747.054 of the Revised Code;
- (4) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;
- (5) The campaign contribution credit under section 5747.29 of the Revised Code;
- (6) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;
- (7) The joint filing credit under division (G) of section 5747.05 of the Revised Code;
- (8) The earned income credit under section 5747.71 of the Revised Code;
- (9) The credit for adoption of a minor child under section 5747.37 of the Revised Code;
- (10) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;
- (11) The enterprise zone credit under section 5709.66 of the Revised Code;
- (12) The ethanol plant investment credit under section 5747.75 of the Revised Code;
- (13) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;
- (14) The small business investment credit under section 5747.81 of the Revised Code;
- (15) The enterprise zone credits under section 5709.65 of the Revised Code;
- (16) The research and development credit under section 5747.331 of the Revised Code;
- (17) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;
- (18) The nonresident credit under division (A) of section 5747.05 of the Revised Code;
- (19) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;
- (20) The refundable motion picture production credit under section 5747.66 of the Revised Code;
- (21) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;
- (22) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;
- (23) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code;
- (24) The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;
- (25) The refundable credit for rehabilitating a historic building under section 5747.76 of the

Revised Code;

(26) The refundable credit for financial institution taxes paid by a pass-through entity granted under section 5747.65 of the Revised Code.

(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (H) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the taxpayer's aggregate amount of tax due under section 5747.02 of the Revised Code, after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.

**Sec. 5751.01.** As used in this chapter:

(A) "Person" means, but is not limited to, individuals, combinations of individuals of any form, receivers, assignees, trustees in bankruptcy, firms, companies, joint-stock companies, business trusts, estates, partnerships, limited liability partnerships, limited liability companies, associations, joint ventures, clubs, societies, for-profit corporations, S corporations, qualified subchapter S subsidiaries, qualified subchapter S trusts, trusts, entities that are disregarded for federal income tax purposes, and any other entities.

(B) "Consolidated elected taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter as the result of an election made under section 5751.011 of the Revised Code.

(C) "Combined taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter under section 5751.012 of the Revised Code.

(D) "Taxpayer" means any person, or any group of persons in the case of a consolidated elected taxpayer or combined taxpayer treated as one taxpayer, required to register or pay tax under this chapter. "Taxpayer" does not include excluded persons.

(E) "Excluded person" means any of the following:

(1) Any person with not more than one hundred fifty thousand dollars of taxable gross receipts during the calendar year. Division (E)(1) of this section does not apply to a person that is a member of a consolidated elected taxpayer;

(2) A public utility that paid the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter, except that a public utility that is a combined company is a taxpayer with regard to the following gross receipts:

(a) Taxable gross receipts directly attributed to a public utility activity, but not directly attributed to an activity that is subject to the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code;

(b) Taxable gross receipts that cannot be directly attributed to any activity, multiplied by a fraction whose numerator is the taxable gross receipts described in division (E)(2)(a) of this section and whose denominator is the total taxable gross receipts that can be directly attributed to any activity;

(c) Except for any differences resulting from the use of an accrual basis method of accounting for purposes of determining gross receipts under this chapter and the use of the cash basis method of

accounting for purposes of determining gross receipts under section 5727.24 of the Revised Code, the gross receipts directly attributed to the activity of a natural gas company shall be determined in a manner consistent with division (D) of section 5727.03 of the Revised Code.

As used in division (E)(2) of this section, "combined company" and "public utility" have the same meanings as in section 5727.01 of the Revised Code.

(3) A financial institution, as defined in section 5726.01 of the Revised Code, that paid the tax imposed by section 5726.02 of the Revised Code based on one or more taxable years that include the entire tax period under this chapter;

(4) A person directly or indirectly owned by one or more financial institutions, as defined in section 5726.01 of the Revised Code, that paid the tax imposed by section 5726.02 of the Revised Code based on one or more taxable years that include the entire tax period under this chapter.

For the purposes of division (E)(4) of this section, a person owns another person under the following circumstances:

(a) In the case of corporations issuing capital stock, one corporation owns another corporation if it owns fifty per cent or more of the other corporation's capital stock with current voting rights;

(b) In the case of a limited liability company, one person owns the company if that person's membership interest, as defined in section 1705.01 of the Revised Code, is fifty per cent or more of the combined membership interests of all persons owning such interests in the company;

(c) In the case of a partnership, trust, or other unincorporated business organization other than a limited liability company, one person owns the organization if, under the articles of organization or other instrument governing the affairs of the organization, that person has a beneficial interest in the organization's profits, surpluses, losses, or distributions of fifty per cent or more of the combined beneficial interests of all persons having such an interest in the organization.

(5) A domestic insurance company or foreign insurance company, as defined in section 5725.01 of the Revised Code, that paid the insurance company premiums tax imposed by section 5725.18 or Chapter 5729. of the Revised Code, or an unauthorized insurance company whose gross premiums are subject to tax under section 3905.36 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter;

(6) A person that solely facilitates or services one or more securitizations of phase-in-recovery property pursuant to a final financing order as those terms are defined in section 4928.23 of the Revised Code. For purposes of this division, "securitization" means transferring one or more assets to one or more persons and then issuing securities backed by the right to receive payment from the asset or assets so transferred.

(7) Except as otherwise provided in this division, a pre-income tax trust as defined in division (FF)(4) of section 5747.01 of the Revised Code and any pass-through entity of which such pre-income tax trust owns or controls, directly, indirectly, or constructively through related interests, more than five per cent of the ownership or equity interests. If the pre-income tax trust has made a qualifying pre-income tax trust election under division (FF)(3) of section 5747.01 of the Revised Code, then the trust and the pass-through entities of which it owns or controls, directly, indirectly, or constructively through related interests, more than five per cent of the ownership or equity interests, shall not be excluded persons for purposes of the tax imposed under section 5751.02 of the Revised

Code.

(8) Nonprofit organizations or the state and its agencies, instrumentalities, or political subdivisions.

(F) Except as otherwise provided in divisions (F)(2), (3), and (4) of this section, "gross receipts" means the total amount realized by a person, without deduction for the cost of goods sold or other expenses incurred, that contributes to the production of gross income of the person, including the fair market value of any property and any services received, and any debt transferred or forgiven as consideration.

(1) The following are examples of gross receipts:

(a) Amounts realized from the sale, exchange, or other disposition of the taxpayer's property to or with another;

(b) Amounts realized from the taxpayer's performance of services for another;

(c) Amounts realized from another's use or possession of the taxpayer's property or capital;

(d) Any combination of the foregoing amounts.

(2) "Gross receipts" excludes the following amounts:

(a) Interest income except interest on credit sales;

(b) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass-through entity as defined under section 5733.04 of the Revised Code;

(c) Receipts from the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset. Notwithstanding section 1221 of the Internal Revenue Code, receipts from hedging transactions also are excluded to the extent the transactions are entered into primarily to protect a financial position, such as managing the risk of exposure to (i) foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations; (ii) interest rate fluctuations; or (iii) commodity price fluctuations. As used in division (F)(2)(c) of this section, "hedging transaction" has the same meaning as used in section 1221 of the Internal Revenue Code and also includes transactions accorded hedge accounting treatment under statement of financial accounting standards number 133 of the financial accounting standards board. For the purposes of division (F)(2)(c) of this section, the actual transfer of title of real or tangible personal property to another entity is not a hedging transaction.

(d) Proceeds received attributable to the repayment, maturity, or redemption of the principal of a loan, bond, mutual fund, certificate of deposit, or marketable instrument;

(e) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan to the person;

(f) Contributions received by a trust, plan, or other arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 1, Subchapter (D) of the Internal Revenue Code applies;

(g) Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, former employee, or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums, or employee expenses, or on account of a

dependent care spending account, legal services plan, any cafeteria plan described in section 125 of the Internal Revenue Code, or any similar employee reimbursement;

(h) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts, or calls, or from the sale of the taxpayer's treasury stock;

(i) Proceeds received on the account of payments from insurance policies, except those proceeds received for the loss of business revenue;

(j) Gifts or charitable contributions received; membership dues received by trade, professional, homeowners', or condominium associations; and payments received for educational courses, meetings, meals, or similar payments to a trade, professional, or other similar association; and fundraising receipts received by any person when any excess receipts are donated or used exclusively for charitable purposes;

(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross receipts;

(l) Property, money, and other amounts received or acquired by an agent on behalf of another in excess of the agent's commission, fee, or other remuneration;

(m) Tax refunds, other tax benefit recoveries, and reimbursements for the tax imposed under this chapter made by entities that are part of the same combined taxpayer or consolidated elected taxpayer group, and reimbursements made by entities that are not members of a combined taxpayer or consolidated elected taxpayer group that are required to be made for economic parity among multiple owners of an entity whose tax obligation under this chapter is required to be reported and paid entirely by one owner, pursuant to the requirements of sections 5751.011 and 5751.012 of the Revised Code;

(n) Pension reversions;

(o) Contributions to capital;

(p) Sales or use taxes collected as a vendor or an out-of-state seller on behalf of the taxing jurisdiction from a consumer or other taxes the taxpayer is required by law to collect directly from a purchaser and remit to a local, state, or federal tax authority;

(q) In the case of receipts from the sale of cigarettes or tobacco products by a wholesale dealer, retail dealer, distributor, manufacturer, or seller, all as defined in section 5743.01 of the Revised Code, an amount equal to the federal and state excise taxes paid by any person on or for such cigarettes or tobacco products under subtitle E of the Internal Revenue Code or Chapter 5743. of the Revised Code;

(r) In the case of receipts from the sale, transfer, exchange, or other disposition of motor fuel as "motor fuel" is defined in section 5736.01 of the Revised Code, an amount equal to the value of the motor fuel, including federal and state motor fuel excise taxes and receipts from billing or invoicing the tax imposed under section 5736.02 of the Revised Code to another person;

(s) In the case of receipts from the sale of beer or intoxicating liquor, as defined in section 4301.01 of the Revised Code, by a person holding a permit issued under Chapter 4301. or 4303. of the Revised Code, an amount equal to federal and state excise taxes paid by any person on or for such beer or intoxicating liquor under subtitle E of the Internal Revenue Code or Chapter 4301. or 4305. of the Revised Code;

(t) Receipts realized by a new motor vehicle dealer or used motor vehicle dealer, as defined

in section 4517.01 of the Revised Code, from the sale or other transfer of a motor vehicle, as defined in that section, to another motor vehicle dealer for the purpose of resale by the transferee motor vehicle dealer, but only if the sale or other transfer was based upon the transferee's need to meet a specific customer's preference for a motor vehicle;

(u) Receipts from a financial institution described in division (E)(3) of this section for services provided to the financial institution in connection with the issuance, processing, servicing, and management of loans or credit accounts, if such financial institution and the recipient of such receipts have at least fifty per cent of their ownership interests owned or controlled, directly or constructively through related interests, by common owners;

(v) Receipts realized from administering anti-neoplastic drugs and other cancer chemotherapy, biologicals, therapeutic agents, and supportive drugs in a physician's office to patients with cancer;

(w) Funds received or used by a mortgage broker that is not a dealer in intangibles, other than fees or other consideration, pursuant to a table-funding mortgage loan or warehouse-lending mortgage loan. Terms used in division (F)(2)(w) of this section have the same meanings as in section 1322.01 of the Revised Code, except "mortgage broker" means a person assisting a buyer in obtaining a mortgage loan for a fee or other consideration paid by the buyer or a lender, or a person engaged in table-funding or warehouse-lending mortgage loans that are first lien mortgage loans.

(x) Property, money, and other amounts received by a professional employer organization, as defined in section 4125.01 of the Revised Code, from a client employer, as defined in that section, in excess of the administrative fee charged by the professional employer organization to the client employer;

(y) In the case of amounts retained as commissions by a permit holder under Chapter 3769. of the Revised Code, an amount equal to the amounts specified under that chapter that must be paid to or collected by the tax commissioner as a tax and the amounts specified under that chapter to be used as purse money;

(z) Qualifying distribution center receipts.

(i) For purposes of division (F)(2)(z) of this section:

(I) "Qualifying distribution center receipts" means receipts of a supplier from qualified property that is delivered to a qualified distribution center, multiplied by a quantity that equals one minus the Ohio delivery percentage. If the qualified distribution center is a refining facility, "supplier" includes all dealers, brokers, processors, sellers, vendors, cosigners, and distributors of qualified property.

(II) "Qualified property" means tangible personal property delivered to a qualified distribution center that is shipped to that qualified distribution center solely for further shipping by the qualified distribution center to another location in this state or elsewhere or, in the case of gold, silver, platinum, or palladium delivered to a refining facility solely for refining to a grade and fineness acceptable for delivery to a registered commodities exchange. "Further shipping" includes storing and repackaging property into smaller or larger bundles, so long as the property is not subject to further manufacturing or processing. "Refining" is limited to extracting impurities from gold, silver, platinum, or palladium through smelting or some other process at a refining facility.

(III) "Qualified distribution center" means a warehouse, a facility similar to a warehouse, or a

refining facility in this state that, for the qualifying year, is operated by a person that is not part of a combined taxpayer group and that has a qualifying certificate. All warehouses or facilities similar to warehouses that are operated by persons in the same taxpayer group and that are located within one mile of each other shall be treated as one qualified distribution center. All refining facilities that are operated by persons in the same taxpayer group and that are located in the same or adjacent counties may be treated as one qualified distribution center.

(IV) "Qualifying year" means the calendar year to which the qualifying certificate applies.

(V) "Qualifying period" means the period of the first day of July of the second year preceding the qualifying year through the thirtieth day of June of the year preceding the qualifying year.

(VI) "Qualifying certificate" means the certificate issued by the tax commissioner after the operator of a distribution center files an annual application with the commissioner. The application and annual fee shall be filed and paid for each qualified distribution center on or before the first day of September before the qualifying year or within forty-five days after the distribution center opens, whichever is later.

The applicant must substantiate to the commissioner's satisfaction that, for the qualifying period, all persons operating the distribution center have more than fifty per cent of the cost of the qualified property shipped to a location such that it would be situated outside this state under the provisions of division (E) of section 5751.033 of the Revised Code. The applicant must also substantiate that the distribution center cumulatively had costs from its suppliers equal to or exceeding five hundred million dollars during the qualifying period. (For purposes of division (F)(2)(z)(i)(VI) of this section, "supplier" excludes any person that is part of the consolidated elected taxpayer group, if applicable, of the operator of the qualified distribution center.) The commissioner may require the applicant to have an independent certified public accountant certify that the calculation of the minimum thresholds required for a qualified distribution center by the operator of a distribution center has been made in accordance with generally accepted accounting principles. The commissioner shall issue or deny the issuance of a certificate within sixty days after the receipt of the application. A denial is subject to appeal under section 5717.02 of the Revised Code. If the operator files a timely appeal under section 5717.02 of the Revised Code, the operator shall be granted a qualifying certificate effective for the remainder of the qualifying year or until the appeal is finalized, whichever is earlier. If the operator does not prevail in the appeal, the operator shall pay the ineligible operator's supplier tax liability.

(VII) "Ohio delivery percentage" means the proportion of the total property delivered to a destination inside Ohio from the qualified distribution center during the qualifying period compared with total deliveries from such distribution center everywhere during the qualifying period.

(VIII) "Refining facility" means one or more buildings located in a county in the Appalachian region of this state as defined by section 107.21 of the Revised Code and utilized for refining or smelting gold, silver, platinum, or palladium to a grade and fineness acceptable for delivery to a registered commodities exchange.

(IX) "Registered commodities exchange" means a board of trade, such as New York mercantile exchange, inc. or commodity exchange, inc., designated as a contract market by the commodity futures trading commission under the "Commodity Exchange Act," 7 U.S.C. 1 et seq., as amended.



(X) "Ineligible operator's supplier tax liability" means an amount equal to the tax liability of all suppliers of a distribution center had the distribution center not been issued a qualifying certificate for the qualifying year. Ineligible operator's supplier tax liability shall not include interest or penalties. The tax commissioner shall determine an ineligible operator's supplier tax liability based on information that the commissioner may request from the operator of the distribution center. An operator shall provide a list of all suppliers of the distribution center and the corresponding costs of qualified property for the qualifying year at issue within sixty days of a request by the commissioner under this division.

(ii)(I) If the distribution center is new and was not open for the entire qualifying period, the operator of the distribution center may request that the commissioner grant a qualifying certificate. If the certificate is granted and it is later determined that more than fifty per cent of the qualified property during that year was not shipped to a location such that it would be situated outside of this state under the provisions of division (E) of section 5751.033 of the Revised Code or if it is later determined that the person that operates the distribution center had average monthly costs from its suppliers of less than forty million dollars during that year, then the operator of the distribution center shall pay the ineligible operator's supplier tax liability. (For purposes of division (F)(2)(z)(ii) of this section, "supplier" excludes any person that is part of the consolidated elected taxpayer group, if applicable, of the operator of the qualified distribution center.)

(II) The commissioner may grant a qualifying certificate to a distribution center that does not qualify as a qualified distribution center for an entire qualifying period if the operator of the distribution center demonstrates that the business operations of the distribution center have changed or will change such that the distribution center will qualify as a qualified distribution center within thirty-six months after the date the operator first applies for a certificate. If, at the end of that thirty-six-month period, the business operations of the distribution center have not changed such that the distribution center qualifies as a qualified distribution center, the operator of the distribution center shall pay the ineligible operator's supplier tax liability for each year that the distribution center received a certificate but did not qualify as a qualified distribution center. For each year the distribution center receives a certificate under division (F)(2)(z)(ii)(II) of this section, the distribution center shall pay all applicable fees required under division (F)(2)(z) of this section and shall submit an updated business plan showing the progress the distribution center made toward qualifying as a qualified distribution center during the preceding year.

(III) An operator may appeal a determination under division (F)(2)(z)(ii)(I) or (II) of this section that the ineligible operator is liable for the operator's supplier tax liability as a result of not qualifying as a qualified distribution center, as provided in section 5717.02 of the Revised Code.

(iii) When filing an application for a qualifying certificate under division (F)(2)(z)(i)(VI) of this section, the operator of a qualified distribution center also shall provide documentation, as the commissioner requires, for the commissioner to ascertain the Ohio delivery percentage. The commissioner, upon issuing the qualifying certificate, also shall certify the Ohio delivery percentage. The operator of the qualified distribution center may appeal the commissioner's certification of the Ohio delivery percentage in the same manner as an appeal is taken from the denial of a qualifying certificate under division (F)(2)(z)(i)(VI) of this section.

(iv)(I) In the case where the distribution center is new and not open for the entire qualifying

period, the operator shall make a good faith estimate of an Ohio delivery percentage for use by suppliers in their reports of taxable gross receipts for the remainder of the qualifying period. The operator of the facility shall disclose to the suppliers that such Ohio delivery percentage is an estimate and is subject to recalculation. By the due date of the next application for a qualifying certificate, the operator shall determine the actual Ohio delivery percentage for the estimated qualifying period and proceed as provided in division (F)(2)(z)(iii) of this section with respect to the calculation and recalculation of the Ohio delivery percentage. The supplier is required to file, within sixty days after receiving notice from the operator of the qualified distribution center, amended reports for the impacted calendar quarter or quarters or calendar year, whichever the case may be. Any additional tax liability or tax overpayment shall be subject to interest but shall not be subject to the imposition of any penalty so long as the amended returns are timely filed.

(II) The operator of a distribution center that receives a qualifying certificate under division (F)(2)(z)(ii)(II) of this section shall make a good faith estimate of the Ohio delivery percentage that the operator estimates will apply to the distribution center at the end of the thirty-six-month period after the operator first applied for a qualifying certificate under that division. The result of the estimate shall be multiplied by a factor of one and seventy-five one-hundredths. The product of that calculation shall be the Ohio delivery percentage used by suppliers in their reports of taxable gross receipts for each qualifying year that the distribution center receives a qualifying certificate under division (F)(2)(z)(ii)(II) of this section, except that, if the product is less than five per cent, the Ohio delivery percentage used shall be five per cent and that, if the product exceeds forty-nine per cent, the Ohio delivery percentage used shall be forty-nine per cent.

(v) Qualifying certificates and Ohio delivery percentages issued by the commissioner shall be open to public inspection and shall be timely published by the commissioner. A supplier relying in good faith on a certificate issued under this division shall not be subject to tax on the qualifying distribution center receipts under division (F)(2)(z) of this section. An operator receiving a qualifying certificate is liable for the ineligible operator's supplier tax liability for each year the operator received a certificate but did not qualify as a qualified distribution center.

(vi) The annual fee for a qualifying certificate shall be one hundred thousand dollars for each qualified distribution center. If a qualifying certificate is not issued, the annual fee is subject to refund after the exhaustion of all appeals provided for in division (F)(2)(z)(i)(VI) of this section. The first one hundred thousand dollars of the annual application fees collected each calendar year shall be credited to the revenue enhancement fund. The remainder of the annual application fees collected shall be distributed in the same manner required under section 5751.20 of the Revised Code.

(vii) The tax commissioner may require that adequate security be posted by the operator of the distribution center on appeal when the commissioner disagrees that the applicant has met the minimum thresholds for a qualified distribution center as set forth in division (F)(2)(z) of this section.

- (aa) Receipts of an employer from payroll deductions relating to the reimbursement of the employer for advancing moneys to an unrelated third party on an employee's behalf;
- (bb) Cash discounts allowed and taken;
- (cc) Returns and allowances;
- (dd) Bad debts from receipts on the basis of which the tax imposed by this chapter was paid

in a prior quarterly tax payment period. For the purpose of this division, "bad debts" means any debts that have become worthless or uncollectible between the preceding and current quarterly tax payment periods, have been uncollected for at least six months, and that may be claimed as a deduction under section 166 of the Internal Revenue Code and the regulations adopted under that section, or that could be claimed as such if the taxpayer kept its accounts on the accrual basis. "Bad debts" does not include repossessed property, uncollectible amounts on property that remains in the possession of the taxpayer until the full purchase price is paid, or expenses in attempting to collect any account receivable or for any portion of the debt recovered;

(ee) Any amount realized from the sale of an account receivable to the extent the receipts from the underlying transaction giving rise to the account receivable were included in the gross receipts of the taxpayer;

(ff) Any receipts directly attributed to a transfer agreement or to the enterprise transferred under that agreement under section 4313.02 of the Revised Code.

(gg)(i) As used in this division:

(I) "Qualified uranium receipts" means receipts from the sale, exchange, lease, loan, production, processing, or other disposition of uranium within a uranium enrichment zone certified by the tax commissioner under division (F)(2)(gg)(ii) of this section. "Qualified uranium receipts" does not include any receipts with a situs in this state outside a uranium enrichment zone certified by the tax commissioner under division (F)(2)(gg)(ii) of this section.

(II) "Uranium enrichment zone" means all real property that is part of a uranium enrichment facility licensed by the United States nuclear regulatory commission and that was or is owned or controlled by the United States department of energy or its successor.

(ii) Any person that owns, leases, or operates real or tangible personal property constituting or located within a uranium enrichment zone may apply to the tax commissioner to have the uranium enrichment zone certified for the purpose of excluding qualified uranium receipts under division (F)(2)(gg) of this section. The application shall include such information that the tax commissioner prescribes. Within sixty days after receiving the application, the tax commissioner shall certify the zone for that purpose if the commissioner determines that the property qualifies as a uranium enrichment zone as defined in division (F)(2)(gg) of this section, or, if the tax commissioner determines that the property does not qualify, the commissioner shall deny the application or request additional information from the applicant. If the tax commissioner denies an application, the commissioner shall state the reasons for the denial. The applicant may appeal the denial of an application to the board of tax appeals pursuant to section 5717.02 of the Revised Code. If the applicant files a timely appeal, the tax commissioner shall conditionally certify the applicant's property. The conditional certification shall expire when all of the applicant's appeals are exhausted. Until final resolution of the appeal, the applicant shall retain the applicant's records in accordance with section 5751.12 of the Revised Code, notwithstanding any time limit on the preservation of records under that section.

(hh) In the case of amounts collected by a licensed casino operator from casino gaming, amounts in excess of the casino operator's gross casino revenue. In this division, "casino operator" and "casino gaming" have the meanings defined in section 3772.01 of the Revised Code, and "gross casino revenue" has the meaning defined in section 5753.01 of the Revised Code.

(ii) Receipts realized from the sale of agricultural commodities by an agricultural commodity handler, both as defined in section 926.01 of the Revised Code, that is licensed by the director of agriculture to handle agricultural commodities in this state.

(jj) Qualifying integrated supply chain receipts.

As used in division (F)(2)(jj) of this section:

(i) "Qualifying integrated supply chain receipts" means receipts of a qualified integrated supply chain vendor from the sale of qualified property delivered to, or integrated supply chain services provided to, another qualified integrated supply chain vendor or to a retailer that is a member of the integrated supply chain. "Qualifying integrated supply chain receipts" does not include receipts of a person that is not a qualified integrated supply chain vendor from the sale of raw materials to a member of an integrated supply chain, or receipts of a member of an integrated supply chain from the sale of qualified property or integrated supply chain services to a person that is not a member of the integrated supply chain.

(ii) "Qualified property" means any of the following:

(I) Component parts used to hold, contain, package, or dispense qualified products, excluding equipment;

(II) Work-in-process inventory that will become, comprise, or form a component part of a qualified product capable of being sold at retail, excluding equipment, machinery, furniture, and fixtures;

(III) Finished goods inventory that is a qualified product capable of being sold at retail in the inventory's present form.

(iii) "Qualified integrated supply chain vendor" means a person that is a member of an integrated supply chain and that provides integrated supply chain services within a qualified integrated supply chain district to a retailer that is a member of the integrated supply chain or to another qualified integrated supply chain vendor that is located within the same such district as the person but does not share a common owner with that person.

(iv) "Qualified product" means a personal care, health, or beauty product or an aromatic product, including a candle. "Qualified product" does not include a drug that may be dispensed only pursuant to a prescription, durable medical equipment, mobility enhancing equipment, or a prosthetic device, as those terms are defined in section 5739.01 of the Revised Code.

(v) "Integrated supply chain" means two or more qualified integrated supply chain vendors certified on the most recent list certified to the tax commissioner under this division that systematically collaborate and coordinate business operations with a retailer on the flow of tangible personal property from material sourcing through manufacturing, assembly, packaging, and delivery to the retailer to improve long-term financial performance of each vendor and the supply chain that includes the retailer.

For the purpose of the certification required under this division, the reporting person for each retailer, on or before the first day of October of each year, shall certify to the tax commissioner a list of the qualified integrated supply chain vendors providing or receiving integrated supply chain services within a qualified integrated supply chain district for the ensuing calendar year. On or before the following first day of November, the commissioner shall issue a certificate to the retailer and to each vendor certified to the commissioner on that list. The certificate shall include the names of the

retailer and of the qualified integrated supply chain vendors.

The retailer shall notify the commissioner of any changes to the list, including additions to or subtractions from the list or changes in the name or legal entity of vendors certified on the list, within sixty days after the date the retailer becomes aware of the change. Within thirty days after receiving that notification, the commissioner shall issue a revised certificate to the retailer and to each vendor certified on the list. The revised certificate shall include the effective date of the change.

Each recipient of a certificate issued pursuant to this division shall maintain a copy of the certificate for four years from the date the certificate was received.

(vi) "Integrated supply chain services" means procuring raw materials or manufacturing, processing, refining, assembling, packaging, or repackaging tangible personal property that will become finished goods inventory capable of being sold at retail by a retailer that is a member of an integrated supply chain.

(vii) "Retailer" means a person primarily engaged in making retail sales and any member of that person's consolidated elected taxpayer group or combined taxpayer group, whether or not that member is primarily engaged in making retail sales.

(viii) "Qualified integrated supply chain district" means the parcel or parcels of land from which a retailer's integrated supply chain that existed on September 29, 2015, provides or receives integrated supply chain services, and to which all of the following apply:

(I) The parcel or parcels are located wholly in a county having a population of greater than one hundred sixty-five thousand but less than one hundred seventy thousand based on the 2010 federal decennial census.

(II) The parcel or parcels are located wholly in the corporate limits of a municipal corporation with a population greater than seven thousand five hundred and less than eight thousand based on the 2010 federal decennial census that is partly located in the county described in division (F)(2)(jj)(viii)(I) of this section, as those corporate limits existed on September 29, 2015.

(III) The aggregate acreage of the parcel or parcels equals or exceeds one hundred acres.

(kk) In the case of a railroad company described in division (D)(9) of section 5727.01 of the Revised Code that purchases dyed diesel fuel directly from a supplier as defined by section 5736.01 of the Revised Code, an amount equal to the product of the number of gallons of dyed diesel fuel purchased directly from such a supplier multiplied by the average wholesale price for a gallon of diesel fuel as determined under section 5736.02 of the Revised Code for the period during which the fuel was purchased multiplied by a fraction, the numerator of which equals the rate of tax levied by section 5736.02 of the Revised Code less the rate of tax computed in section 5751.03 of the Revised Code, and the denominator of which equals the rate of tax computed in section 5751.03 of the Revised Code.

(ll) Any receipts for which the tax imposed by this chapter is prohibited by the constitution or laws of the United States or the constitution of this state.

(3) In the case of a taxpayer when acting as a real estate broker, "gross receipts" includes only the portion of any fee for the service of a real estate broker, or service of a real estate salesperson associated with that broker, that is retained by the broker and not paid to an associated real estate salesperson or another real estate broker. For the purposes of this division, "real estate broker" and "real estate salesperson" have the same meanings as in section 4735.01 of the Revised Code.

(4) A taxpayer's method of accounting for gross receipts for a tax period shall be the same as the taxpayer's method of accounting for federal income tax purposes for the taxpayer's federal taxable year that includes the tax period. If a taxpayer's method of accounting for federal income tax purposes changes, its method of accounting for gross receipts under this chapter shall be changed accordingly.

(G) "Taxable gross receipts" means gross receipts situated to this state under section 5751.033 of the Revised Code.

(H) A person has "substantial nexus with this state" if any of the following applies. The person:

- (1) Owns or uses a part or all of its capital in this state;
- (2) Holds a certificate of compliance with the laws of this state authorizing the person to do business in this state;
- (3) Has bright-line presence in this state;
- (4) Otherwise has nexus with this state to an extent that the person can be required to remit the tax imposed under this chapter under the Constitution of the United States.

(I) A person has "bright-line presence" in this state for a reporting period and for the remaining portion of the calendar year if any of the following applies. The person:

- (1) Has at any time during the calendar year property in this state with an aggregate value of at least fifty thousand dollars. For the purpose of division (I)(1) of this section, owned property is valued at original cost and rented property is valued at eight times the net annual rental charge.
- (2) Has during the calendar year payroll in this state of at least fifty thousand dollars. Payroll in this state includes all of the following:
  - (a) Any amount subject to withholding by the person under section 5747.06 of the Revised Code;
  - (b) Any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in this state; and
  - (c) Any amount the person pays for services performed in this state on its behalf by another.
- (3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars.
- (4) Has at any time during the calendar year within this state at least twenty-five per cent of the person's total property, total payroll, or total gross receipts.
- (5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.

(J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code.

(K) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in this chapter that is not otherwise defined has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

(L) "Calendar quarter" means a three-month period ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, or the thirty-first day of December.

(M) "Tax period" means the calendar quarter or calendar year on the basis of which a taxpayer is required to pay the tax imposed under this chapter.

(N) "Calendar year taxpayer" means a taxpayer for which the tax period is a calendar year.

(O) "Calendar quarter taxpayer" means a taxpayer for which the tax period is a calendar quarter.

(P) "Agent" means a person authorized by another person to act on its behalf to undertake a transaction for the other, including any of the following:

(1) A person receiving a fee to sell financial instruments;

(2) A person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person;

(3) A person issuing licenses and permits under section 1533.13 of the Revised Code;

(4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code;

(5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.

(Q) "Received" includes amounts accrued under the accrual method of accounting.

(R) "Reporting person" means a person in a consolidated elected taxpayer or combined taxpayer group that is designated by that group to legally bind the group for all filings and tax liabilities and to receive all legal notices with respect to matters under this chapter, or, for the purposes of section 5751.04 of the Revised Code, a separate taxpayer that is not a member of such a group.

**Sec. 5751.02.** (A) For the purpose of funding the needs of this state and its local governments, there is hereby levied a commercial activity tax on each person with taxable gross receipts for the privilege of doing business in this state. For the purposes of this chapter, "doing business" means engaging in any activity, whether legal or illegal, that is conducted for, or results in, gain, profit, or income, at any time during a calendar year. Persons on which the commercial activity tax is levied include, but are not limited to, persons with substantial nexus with this state. The tax imposed under this section is not a transactional tax and is not subject to Public Law No. 86-272, 73 Stat. 555. The tax imposed under this section is in addition to any other taxes or fees imposed under the Revised Code. The tax levied under this section is imposed on the person receiving the gross receipts and is not a tax imposed directly on a purchaser. The tax imposed by this section is an annual privilege tax for the calendar year that, in the case of calendar year taxpayers, is the annual tax period and, in the case of calendar quarter taxpayers, contains all quarterly tax periods in the calendar year. A taxpayer is subject to the annual privilege tax for doing business during any portion of such calendar year.

(B) The tax imposed by this section is a tax on the taxpayer and shall not be billed or invoiced to another person. Even if the tax or any portion thereof is billed or invoiced and separately stated, such amounts remain part of the price for purposes of the sales and use taxes levied under Chapters 5739. and 5741. of the Revised Code. Nothing in division (B) of this section prohibits:

(1) A person from including in the price charged for a good or service an amount sufficient to recover the tax imposed by this section; or

(2) A lessor from including an amount sufficient to recover the tax imposed by this section in

a lease payment charged, or from including such an amount on a billing or invoice pursuant to the terms of a written lease agreement providing for the recovery of the lessor's tax costs. The recovery of such costs shall be based on an estimate of the total tax cost of the lessor during the tax period, as the tax liability of the lessor cannot be calculated until the end of that period.

(C)(1) The commercial activities tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed under this chapter. Seventy-five one-hundredths of one per cent of the money credited to that fund shall be credited to the revenue enhancement fund and shall be used to defray the costs incurred by the department of taxation in administering the tax imposed by this chapter and in implementing tax reform measures. The remainder of the money in the commercial activities tax receipts fund shall first be credited to the commercial activity tax motor fuel receipts fund, pursuant to division (C)(2) of this section, and the remainder shall be credited in the following percentages each fiscal year to the general revenue fund, to the school district tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5709.92 of the Revised Code, and to the local government tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5709.93 of the Revised Code, in the following percentages:

Fiscal year	General Revenue	School District Local	Fund
	Tangible Government		
	Property Tax	Property Tax	
	Replacement	Replacement	Fund
	Tangible		
		Fund	
2014 and 2015	50.0%	35.0%	15.0%
2016 and 2017	75.0%	20.0%	5.0%
2018 and	85.0%	13.0%	2.0%
thereafter			

(2) Not later than the twentieth day of February, May, August, and November of each year, the commissioner shall provide for payment from the commercial activities tax receipts fund to the commercial activity tax motor fuel receipts fund an amount that bears the same ratio to the balance in the commercial activities tax receipts fund that (a) the taxable gross receipts attributed to motor fuel used for propelling vehicles on public highways as indicated by returns filed by the tenth day of that month for a liability that is due and payable on or after July 1, 2013, for a tax period ending before July 1, 2014, bears to (b) all taxable gross receipts as indicated by those returns for such liabilities.

(D)(1) If the total amount in the school district tangible property tax replacement fund is insufficient to make all payments under section 5709.92 of the Revised Code at the times the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the school district tangible property tax replacement fund the difference between the total amount to be paid and the amount in the school district tangible property tax replacement fund.



(2) If the total amount in the local government tangible property tax replacement fund is insufficient to make all payments under section 5709.93 of the Revised Code at the times the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the local government tangible property tax replacement fund the difference between the total amount to be paid and the amount in the local government tangible property tax replacement fund.

(E)(1) On or after the first day of June of each year, the director of budget and management may transfer any balance in the school district tangible property tax replacement fund to the general revenue fund.

(2) On or after the first day of June of each year, the director of budget and management may transfer any balance in the local government tangible property tax replacement fund to the general revenue fund.

(F)(1) There is hereby created in the state treasury the commercial activity tax motor fuel receipts fund.

(2) On or before the fifteenth day of June of each fiscal year beginning with fiscal year 2015, the director of the Ohio public works commission shall certify to the director of budget and management the amount of debt service paid from the general revenue fund in the current fiscal year on bonds issued to finance or assist in the financing of the cost of local subdivision public infrastructure capital improvement projects, as provided for in Sections 2k, 2m, 2p, and 2s of Article VIII, Ohio Constitution, that are attributable to costs for construction, reconstruction, maintenance, or repair of public highways and bridges and other statutory highway purposes. That certification shall allocate the total amount of debt service paid from the general revenue fund and attributable to those costs in the current fiscal year according to the applicable section of the Ohio Constitution under which the bonds were originally issued.

(3) On or before the thirtieth day of June of each fiscal year beginning with fiscal year 2015, the director of budget and management shall determine an amount up to but not exceeding the amount certified under division (F)(2) of this section and shall reserve that amount from the cash balance in the petroleum activity tax public highways fund or the commercial activity tax motor fuel receipts fund for transfer to the general revenue fund at times and in amounts to be determined by the director. The director shall transfer the cash balance in the petroleum activity tax public highways fund or the commercial activity tax motor fuel receipts fund in excess of the amount so reserved to the highway operating fund on or before the thirtieth day of June of the current fiscal year.

**Sec. 5751.20.** No determinations, computations, certifications, or payments shall be made under this section after June 30, 2015.

(A) As used in sections 5751.20 to 5751.22 of the Revised Code:

(1) "School district," "joint vocational school district," "local taxing unit," "recognized valuation," "fixed-rate levy," and "fixed-sum levy" have the same meanings as used in section 5727.84 of the Revised Code.

(2) "State education aid" for a school district means the following:

(a) For fiscal years prior to fiscal year 2010, the sum of state aid amounts computed for the district under the following provisions, as they existed for the applicable fiscal year: division (A) of section 3317.022 of the Revised Code, including the amounts calculated under former section

3317.029 and section 3317.0217 of the Revised Code; divisions (C)(1), (C)(4), (D), (E), and (F) of section 3317.022; divisions (B), (C), and (D) of section 3317.023; divisions (L) and (N) of section 3317.024; section 3317.0216; and any unit payments for gifted student services paid under section 3317.05 and former sections 3317.052 and 3317.053 of the Revised Code; except that, for fiscal years 2008 and 2009, the amount computed for the district under Section 269.20.80 of H.B. 119 of the 127th general assembly and as that section subsequently may be amended shall be substituted for the amount computed under division (D) of section 3317.022 of the Revised Code, and the amount computed under Section 269.30.80 of H.B. 119 of the 127th general assembly and as that section subsequently may be amended shall be included.

(b) For fiscal years 2010 and 2011, the sum of the amounts computed under former sections 3306.052, 3306.12, 3306.13, 3306.19, 3306.191, and 3306.192 of the Revised Code;

(c) For fiscal years 2012 and 2013, the sum of the amounts paid under Sections 267.30.50, 267.30.53, and 267.30.56 of H.B. 153 of the 129th general assembly;

(d) For fiscal year 2014 and each fiscal year thereafter, the sum of state amounts computed for the district under section 3317.022 of the Revised Code; except that, for fiscal years 2014 and 2015, the amount computed for the district under the section of this act entitled "TRANSITIONAL AID FOR CITY, LOCAL, AND EXEMPTED VILLAGE SCHOOL DISTRICTS" shall be included.

(3) "State education aid" for a joint vocational school district means the following:

(a) For fiscal years prior to fiscal year 2010, the sum of the state aid computed for the district under division (N) of section 3317.024 and former section 3317.16 of the Revised Code, except that, for fiscal years 2008 and 2009, the amount computed under Section 269.30.80 of H.B. 119 of the 127th general assembly and as that section subsequently may be amended shall be included.

(b) For fiscal years 2010 and 2011, the amount paid in accordance with Section 265.30.50 of H.B. 1 of the 128th general assembly.

(c) For fiscal years 2012 and 2013, the amount paid in accordance with Section 267.30.60 of H.B. 153 of the 129th general assembly.

(d) For fiscal year 2014 and each fiscal year thereafter, the amount computed for the district under section 3317.16 of the Revised Code; except that, for fiscal years 2014 and 2015, the amount computed for the district under the section of this act entitled "TRANSITIONAL AID FOR JOINT VOCATIONAL SCHOOL DISTRICTS" shall be included.

(4) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5751.21 of the Revised Code.

(5) "Machinery and equipment property tax value loss" means the amount determined under division (C)(1) of this section.

(6) "Inventory property tax value loss" means the amount determined under division (C)(2) of this section.

(7) "Furniture and fixtures property tax value loss" means the amount determined under division (C)(3) of this section.

(8) "Machinery and equipment fixed-rate levy loss" means the amount determined under division (D)(1) of this section.

(9) "Inventory fixed-rate levy loss" means the amount determined under division (D)(2) of this section.

(10) "Furniture and fixtures fixed-rate levy loss" means the amount determined under division (D)(3) of this section.

(11) "Total fixed-rate levy loss" means the sum of the machinery and equipment fixed-rate levy loss, the inventory fixed-rate levy loss, the furniture and fixtures fixed-rate levy loss, and the telephone company fixed-rate levy loss.

(12) "Fixed-sum levy loss" means the amount determined under division (E) of this section.

(13) "Machinery and equipment" means personal property subject to the assessment rate specified in division (F) of section 5711.22 of the Revised Code.

(14) "Inventory" means personal property subject to the assessment rate specified in division (E) of section 5711.22 of the Revised Code.

(15) "Furniture and fixtures" means personal property subject to the assessment rate specified in division (G) of section 5711.22 of the Revised Code.

(16) "Qualifying levies" are levies in effect for tax year 2004 or applicable to tax year 2005 or approved at an election conducted before September 1, 2005. For the purpose of determining the rate of a qualifying levy authorized by section 5705.212 or 5705.213 of the Revised Code, the rate shall be the rate that would be in effect for tax year 2010.

(17) "Telephone property" means tangible personal property of a telephone, telegraph, or interexchange telecommunications company subject to an assessment rate specified in section 5727.111 of the Revised Code in tax year 2004.

(18) "Telephone property tax value loss" means the amount determined under division (C)(4) of this section.

(19) "Telephone property fixed-rate levy loss" means the amount determined under division (D)(4) of this section.

(20) "Taxes charged and payable" means taxes charged and payable after the reduction required by section 319.301 of the Revised Code but before the reductions required by sections 319.302 and 323.152 of the Revised Code.

(21) "Median estate tax collections" means, in the case of a municipal corporation to which revenue from the taxes levied in Chapter 5731. of the Revised Code was distributed in each of calendar years 2006, 2007, 2008, and 2009, the median of those distributions. In the case of a municipal corporation to which no distributions were made in one or more of those years, "median estate tax collections" means zero.

(22) "Total resources," in the case of a school district, means the sum of the amounts in divisions (A)(22)(a) to (h) of this section less any reduction required under division (A)(32) or (33) of this section.

(a) The state education aid for fiscal year 2010;

(b) The sum of the payments received by the school district in fiscal year 2010 for current expense levy losses pursuant to division (C)(2) of section 5727.85 and divisions (C)(8) and (9) of section 5751.21 of the Revised Code, excluding the portion of such payments attributable to levies for joint vocational school district purposes;

(c) The sum of fixed-sum levy loss payments received by the school district in fiscal year 2010 pursuant to division (E)(1) of section 5727.85 and division (E)(1) of section 5751.21 of the Revised Code for fixed-sum levies charged and payable for a purpose other than paying debt charges;

(d) Fifty per cent of the school district's taxes charged and payable against all property on the tax list of real and public utility property for current expense purposes for tax year 2008, including taxes charged and payable from emergency levies charged and payable under section 5709.194 of the Revised Code and excluding taxes levied for joint vocational school district purposes;

(e) Fifty per cent of the school district's taxes charged and payable against all property on the tax list of real and public utility property for current expenses for tax year 2009, including taxes charged and payable from emergency levies and excluding taxes levied for joint vocational school district purposes;

(f) The school district's taxes charged and payable against all property on the general tax list of personal property for current expenses for tax year 2009, including taxes charged and payable from emergency levies;

(g) The amount certified for fiscal year 2010 under division (A)(2) of section 3317.08 of the Revised Code;

(h) Distributions received during calendar year 2009 from taxes levied under section 718.09 of the Revised Code.

(23) "Total resources," in the case of a joint vocational school district, means the sum of amounts in divisions (A)(23)(a) to (g) of this section less any reduction required under division (A)(32) of this section.

(a) The state education aid for fiscal year 2010;

(b) The sum of the payments received by the joint vocational school district in fiscal year 2010 for current expense levy losses pursuant to division (C)(2) of section 5727.85 and divisions (C)(8) and (9) of section 5751.21 of the Revised Code;

(c) Fifty per cent of the joint vocational school district's taxes charged and payable against all property on the tax list of real and public utility property for current expense purposes for tax year 2008;

(d) Fifty per cent of the joint vocational school district's taxes charged and payable against all property on the tax list of real and public utility property for current expenses for tax year 2009;

(e) Fifty per cent of a city, local, or exempted village school district's taxes charged and payable against all property on the tax list of real and public utility property for current expenses of the joint vocational school district for tax year 2008;

(f) Fifty per cent of a city, local, or exempted village school district's taxes charged and payable against all property on the tax list of real and public utility property for current expenses of the joint vocational school district for tax year 2009;

(g) The joint vocational school district's taxes charged and payable against all property on the general tax list of personal property for current expenses for tax year 2009.

(24) "Total resources," in the case of county mental health and disability related functions, means the sum of the amounts in divisions (A)(24)(a) and (b) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county for mental health and developmental disability related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) With respect to taxes levied by the county for mental health and developmental disability

related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.

(25) "Total resources," in the case of county senior services related functions, means the sum of the amounts in divisions (A)(25)(a) and (b) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county for senior services related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) With respect to taxes levied by the county for senior services related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.

(26) "Total resources," in the case of county children's services related functions, means the sum of the amounts in divisions (A)(26)(a) and (b) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county for children's services related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) With respect to taxes levied by the county for children's services related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.

(27) "Total resources," in the case of county public health related functions, means the sum of the amounts in divisions (A)(27)(a) and (b) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county for public health related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) With respect to taxes levied by the county for public health related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.

(28) "Total resources," in the case of all county functions not included in divisions (A)(24) to (27) of this section, means the sum of the amounts in divisions (A)(28)(a) to (d) of this section less any reduction required under division (A)(32) or (33) of this section.

(a) The sum of the payments received by the county for all other purposes in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) The county's percentage share of county undivided local government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under division (J) of section 5747.51 of the Revised Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund;

(c) With respect to taxes levied by the county for all other purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax

year 2009, excluding taxes charged and payable for the purpose of paying debt charges;

(d) The sum of the amounts distributed to the county in calendar year 2010 for the taxes levied pursuant to sections 5739.021 and 5741.021 of the Revised Code.

(29) "Total resources," in the case of a municipal corporation, means the sum of the amounts in divisions (A)(29)(a) to (g) of this section less any reduction required under division (A)(32) or (33) of this section.

(a) The sum of the payments received by the municipal corporation in calendar year 2010 for current expense levy losses under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) The municipal corporation's percentage share of county undivided local government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under division (J) of section 5747.51 of the Revised Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund;

(c) The sum of the amounts distributed to the municipal corporation in calendar year 2010 pursuant to section 5747.50 of the Revised Code;

(d) With respect to taxes levied by the municipal corporation, the taxes charged and payable against all property on the tax list of real and public utility property for current expenses, defined in division (A)(35) of this section, for tax year 2009;

(e) The amount of admissions tax collected by the municipal corporation in calendar year 2008, or if such information has not yet been reported to the tax commissioner, in the most recent year before 2008 for which the municipal corporation has reported data to the commissioner;

(f) The amount of income taxes collected by the municipal corporation in calendar year 2008, or if such information has not yet been reported to the tax commissioner, in the most recent year before 2008 for which the municipal corporation has reported data to the commissioner;

(g) The municipal corporation's median estate tax collections.

(30) "Total resources," in the case of a township, means the sum of the amounts in divisions (A)(30)(a) to (c) of this section less any reduction required under division (A)(32) or (33) of this section.

(a) The sum of the payments received by the township in calendar year 2010 pursuant to division (A)(1) of section 5727.86 of the Revised Code and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time, excluding payments received for debt purposes;

(b) The township's percentage share of county undivided local government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under division (J) of section 5747.51 of the Revised Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund;

(c) With respect to taxes levied by the township, the taxes charged and payable against all property on the tax list of real and public utility property for tax year 2009 excluding taxes charged and payable for the purpose of paying debt charges.

(31) "Total resources," in the case of a local taxing unit that is not a county, municipal

corporation, or township, means the sum of the amounts in divisions (A)(31)(a) to (e) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the local taxing unit in calendar year 2010 pursuant to division (A)(1) of section 5727.86 of the Revised Code and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) The local taxing unit's percentage share of county undivided local government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under division (J) of section 5747.51 of the Revised Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund;

(c) With respect to taxes levied by the local taxing unit, the taxes charged and payable against all property on the tax list of real and public utility property for tax year 2009 excluding taxes charged and payable for the purpose of paying debt charges;

(d) The amount received from the tax commissioner during calendar year 2010 for sales or use taxes authorized under sections 5739.023 and 5741.022 of the Revised Code;

(e) For institutions of higher education receiving tax revenue from a local levy, as identified in section 3358.02 of the Revised Code, the final state share of instruction allocation for fiscal year 2010 as calculated by the chancellor of higher education and reported to the state controlling board.

(32) If a fixed-rate levy that is a qualifying levy is not charged and payable in any year after tax year 2010, "total resources" used to compute payments to be made under division (C)(12) of section 5751.21 or division (A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that the payments are attributable to the fixed-rate levy loss of that levy as would be computed under division (C)(2) of section 5727.85, division (A)(1) of section 5727.85, divisions (C)(8) and (9) of section 5751.21, or division (A)(1) of section 5751.22 of the Revised Code.

(33) In the case of a county, municipal corporation, school district, or township with fixed-rate levy losses attributable to a tax levied under section 5705.23 of the Revised Code, "total resources" used to compute payments to be made under division (C)(3) of section 5727.85, division (A)(1)(d) of section 5727.86, division (C)(12) of section 5751.21, or division (A)(1)(c) of section 5751.22 of the Revised Code shall be reduced by the amounts described in divisions (A)(34)(a) to (c) of this section to the extent that those amounts were included in calculating the "total resources" of the school district or local taxing unit under division (A)(22), (28), (29), or (30) of this section.

(34) "Total library resources," in the case of a county, municipal corporation, school district, or township public library that receives the proceeds of a tax levied under section 5705.23 of the Revised Code, means the sum of the amounts in divisions (A)(34)(a) to (c) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county, municipal corporation, school district, or township public library in calendar year 2010 pursuant to sections 5727.86 and 5751.22 of the Revised Code, as they existed at that time, for fixed-rate levy losses attributable to a tax levied under section 5705.23 of the Revised Code for the benefit of the public library;

(b) The public library's percentage share of county undivided local government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under

division (J) of section 5747.51 of the Revised Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund;

(c) With respect to a tax levied pursuant to section 5705.23 of the Revised Code for the benefit of the public library, the amount of such tax that is charged and payable against all property on the tax list of real and public utility property for tax year 2009 excluding any tax that is charged and payable for the purpose of paying debt charges.

(35) "Municipal current expense property tax levies" means all property tax levies of a municipality, except those with the following levy names: airport resurfacing; bond or any levy name including the word "bond"; capital improvement or any levy name including the word "capital"; debt or any levy name including the word "debt"; equipment or any levy name including the word "equipment," unless the levy is for combined operating and equipment; employee termination fund; fire pension or any levy containing the word "pension," including police pensions; fireman's fund or any practically similar name; sinking fund; road improvements or any levy containing the word "road"; fire truck or apparatus; flood or any levy containing the word "flood"; conservancy district; county health; note retirement; sewage, or any levy containing the words "sewage" or "sewer"; park improvement; parkland acquisition; storm drain; street or any levy name containing the word "street"; lighting, or any levy name containing the word "lighting"; and water.

(36) "Current expense TPP allocation" means, in the case of a school district or joint vocational school district, the sum of the payments received by the school district in fiscal year 2011 pursuant to divisions (C)(10) and (11) of section 5751.21 of the Revised Code to the extent paid for current expense levies. In the case of a municipal corporation, "current expense TPP allocation" means the sum of the payments received by the municipal corporation in calendar year 2010 pursuant to divisions (A)(1) and (2) of section 5751.22 of the Revised Code to the extent paid for municipal current expense property tax levies as defined in division (A)(35) of this section, excluding any such payments received for current expense levy losses attributable to a tax levied under section 5705.23 of the Revised Code. If a fixed-rate levy that is a qualifying levy is not charged and payable in any year after tax year 2010, "current expense TPP allocation" used to compute payments to be made under division (C)(12) of section 5751.21 or division (A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that the payments are attributable to the fixed-rate levy loss of that levy as would be computed under divisions (C)(10) and (11) of section 5751.21 or division (A)(1) of section 5751.22 of the Revised Code.

(37) "TPP allocation" means the sum of payments received by a local taxing unit in calendar year 2010 pursuant to divisions (A)(1) and (2) of section 5751.22 of the Revised Code, excluding any such payments received for fixed-rate levy losses attributable to a tax levied under section 5705.23 of the Revised Code. If a fixed-rate levy that is a qualifying levy is not charged and payable in any year after tax year 2010, "TPP allocation" used to compute payments to be made under division (A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that the payments are attributable to the fixed-rate levy loss of that levy as would be computed under division (A)(1) of that section.

(38) "Total TPP allocation" means, in the case of a school district or joint vocational school



district, the sum of the amounts received in fiscal year 2011 pursuant to divisions (C)(10) and (11) and (D) of section 5751.21 of the Revised Code. In the case of a local taxing unit, "total TPP allocation" means the sum of payments received by the unit in calendar year 2010 pursuant to divisions (A)(1), (2), and (3) of section 5751.22 of the Revised Code. If a fixed-rate levy that is a qualifying levy is not charged and payable in any year after tax year 2010, "total TPP allocation" used to compute payments to be made under division (C)(12) of section 5751.21 or division (A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that the payments are attributable to the fixed-rate levy loss of that levy as would be computed under divisions (C)(10) and (11) of section 5751.21 or division (A)(1) of section 5751.22 of the Revised Code.

(39) "Non-current expense TPP allocation" means the difference of total TPP allocation minus the sum of current expense TPP allocation and the portion of total TPP allocation constituting reimbursement for debt levies, pursuant to division (D) of section 5751.21 of the Revised Code in the case of a school district or joint vocational school district and pursuant to division (A)(3) of section 5751.22 of the Revised Code in the case of a municipal corporation.

(40) "TPP allocation for library purposes" means the sum of payments received by a county, municipal corporation, school district, or township public library in calendar year 2010 pursuant to section 5751.22 of the Revised Code for fixed-rate levy losses attributable to a tax levied under section 5705.23 of the Revised Code. If a fixed-rate levy authorized under section 5705.23 of the Revised Code that is a qualifying levy is not charged and payable in any year after tax year 2010, "TPP allocation for library purposes" used to compute payments to be made under division (A)(1)(d) of section 5751.22 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that the payments are attributable to the fixed-rate levy loss of that levy as would be computed under division (A)(1) of section 5751.22 of the Revised Code.

(41) "Threshold per cent" means, in the case of a school district or joint vocational school district, two per cent for fiscal year 2012 and four per cent for fiscal years 2013 and thereafter. In the case of a local taxing unit or public library that receives the proceeds of a tax levied under section 5705.23 of the Revised Code, "threshold per cent" means two per cent for tax year 2011, four per cent for tax year 2012, and six per cent for tax years 2013 and thereafter.

(B)(1) The commercial activities tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed under this chapter. Eighty-five one-hundredths of one per cent of the money credited to that fund shall be credited to the revenue enhancement fund and shall be used to defray the costs incurred by the department of taxation in administering the tax imposed by this chapter and in implementing tax reform measures. The remainder of the money in the commercial activities tax receipts fund shall first be credited to the commercial activity tax motor fuel receipts fund, pursuant to division (B)(2) of this section, and the remainder shall be credited in the following percentages each fiscal year to the general revenue fund, to the school district tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5751.21 of the Revised Code, and to the local government tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5751.22 of the Revised Code, in the following percentages:

Fiscal year	General Revenue	School District Local	Fund
	Tangible Government	Property Tax Tangible	
	Replacement	Property Tax	
	Fund Replacement		Fund
2006	67.7%	22.6%	9.7%
2007	0%	70.0%	30.0%
2008	0%	70.0%	30.0%
2009	0%	70.0%	30.0%
2010	0%	70.0%	30.0%
2011	0%	70.0%	30.0%
2012	25.0%	52.5%	22.5%
2013 and thereafter	50.0%	35.0%	15.0%

(2) Not later than the twentieth day of February, May, August, and November of each year, the commissioner shall provide for payment from the commercial activities tax receipts fund to the commercial activity tax motor fuel receipts fund an amount that bears the same ratio to the balance in the commercial activities tax receipts fund that (a) the taxable gross receipts attributed to motor fuel used for propelling vehicles on public highways as indicated by returns filed by the tenth day of that month for a liability that is due and payable on or after July 1, 2013, for a tax period ending before July 1, 2014, bears to (b) all taxable gross receipts as indicated by those returns for such liabilities.

(C) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its machinery and equipment, inventory property, furniture and fixtures property, and telephone property tax value losses, which are the applicable amounts described in divisions (C)(1), (2), (3), and (4) of this section, except as provided in division (C)(5) of this section:

(1) Machinery and equipment property tax value loss is the taxable value of machinery and equipment property as reported by taxpayers for tax year 2004 multiplied by:

- (a) For tax year 2006, thirty-three and eight-tenths per cent;
- (b) For tax year 2007, sixty-one and three-tenths per cent;
- (c) For tax year 2008, eighty-three per cent;
- (d) For tax year 2009 and thereafter, one hundred per cent.

(2) Inventory property tax value loss is the taxable value of inventory property as reported by taxpayers for tax year 2004 multiplied by:

(a) For tax year 2006, a fraction, the numerator of which is five and three-fourths and the denominator of which is twenty-three;

(b) For tax year 2007, a fraction, the numerator of which is nine and one-half and the denominator of which is twenty-three;

(c) For tax year 2008, a fraction, the numerator of which is thirteen and one-fourth and the denominator of which is twenty-three;

(d) For tax year 2009 and thereafter a fraction, the numerator of which is seventeen and the denominator of which is twenty-three.

(3) Furniture and fixtures property tax value loss is the taxable value of furniture and fixture property as reported by taxpayers for tax year 2004 multiplied by:

(a) For tax year 2006, twenty-five per cent;

(b) For tax year 2007, fifty per cent;

(c) For tax year 2008, seventy-five per cent;

(d) For tax year 2009 and thereafter, one hundred per cent.

The taxable value of property reported by taxpayers used in divisions (C)(1), (2), and (3) of this section shall be such values as determined to be final by the tax commissioner as of August 31, 2005. Such determinations shall be final except for any correction of a clerical error that was made prior to August 31, 2005, by the tax commissioner.

(4) Telephone property tax value loss is the taxable value of telephone property as taxpayers would have reported that property for tax year 2004 if the assessment rate for all telephone property for that year were twenty-five per cent, multiplied by:

(a) For tax year 2006, zero per cent;

(b) For tax year 2007, zero per cent;

(c) For tax year 2008, zero per cent;

(d) For tax year 2009, sixty per cent;

(e) For tax year 2010, eighty per cent;

(f) For tax year 2011 and thereafter, one hundred per cent.

(5) Division (C)(5) of this section applies to any school district, joint vocational school district, or local taxing unit in a county in which is located a facility currently or formerly devoted to the enrichment or commercialization of uranium or uranium products, and for which the total taxable value of property listed on the general tax list of personal property for any tax year from tax year 2001 to tax year 2004 was fifty per cent or less of the taxable value of such property listed on the general tax list of personal property for the next preceding tax year.

In computing the fixed-rate levy losses under divisions (D)(1), (2), and (3) of this section for any school district, joint vocational school district, or local taxing unit to which division (C)(5) of this section applies, the taxable value of such property as listed on the general tax list of personal property for tax year 2000 shall be substituted for the taxable value of such property as reported by taxpayers for tax year 2004, in the taxing district containing the uranium facility, if the taxable value listed for tax year 2000 is greater than the taxable value reported by taxpayers for tax year 2004. For the purpose of making the computations under divisions (D)(1), (2), and (3) of this section, the tax year 2000 valuation is to be allocated to machinery and equipment, inventory, and furniture and fixtures property in the same proportions as the tax year 2004 values. For the purpose of the calculations in division (A) of section 5751.21 of the Revised Code, the tax year 2004 taxable values shall be used.

To facilitate the calculations required under division (C) of this section, the county auditor, upon request from the tax commissioner, shall provide by August 1, 2005, the values of machinery

and equipment, inventory, and furniture and fixtures for all single-county personal property taxpayers for tax year 2004.

(D) Not later than September 15, 2005, the tax commissioner shall determine for each tax year from 2006 through 2009 for each school district, joint vocational school district, and local taxing unit its machinery and equipment, inventory, and furniture and fixtures fixed-rate levy losses, and for each tax year from 2006 through 2011 its telephone property fixed-rate levy loss. Except as provided in division (F) of this section, such losses are the applicable amounts described in divisions (D)(1), (2), (3), and (4) of this section:

(1) The machinery and equipment fixed-rate levy loss is the machinery and equipment property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(2) The inventory fixed-rate loss is the inventory property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(3) The furniture and fixtures fixed-rate levy loss is the furniture and fixture property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(4) The telephone property fixed-rate levy loss is the telephone property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(E) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-sum levy loss. The fixed-sum levy loss is the amount obtained by subtracting the amount described in division (E)(2) of this section from the amount described in division (E)(1) of this section:

(1) The sum of the machinery and equipment property tax value loss, the inventory property tax value loss, and the furniture and fixtures property tax value loss, and, for 2008 through 2010, the telephone property tax value loss of the district or unit multiplied by the sum of the fixed-sum tax rates of qualifying levies. For 2006 through 2010, this computation shall include all qualifying levies remaining in effect for the current tax year and any school district levies charged and payable under section 5705.194 or 5705.213 of the Revised Code that are qualifying levies not remaining in effect for the current year. For 2011 through 2017 in the case of school district levies charged and payable under section 5705.194 or 5705.213 of the Revised Code and for all years after 2010 in the case of other fixed-sum levies, this computation shall include only qualifying levies remaining in effect for the current year. For purposes of this computation, a qualifying school district levy charged and payable under section 5705.194 or 5705.213 of the Revised Code remains in effect in a year after 2010 only if, for that year, the board of education levies a school district levy charged and payable under section 5705.194, 5705.199, 5705.213, or 5705.219 of the Revised Code for an annual sum at least equal to the annual sum levied by the board in tax year 2004 less the amount of the payment certified under this division for 2006.

(2) The total taxable value in tax year 2004 less the sum of the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses in each school district, joint vocational school district, and local taxing unit multiplied by one-half of one mill per dollar.

(3) For the calculations in divisions (E)(1) and (2) of this section, the tax value losses are those that would be calculated for tax year 2009 under divisions (C)(1), (2), and (3) of this section and for tax year 2011 under division (C)(4) of this section.

(4) To facilitate the calculation under divisions (D) and (E) of this section, not later than

September 1, 2005, any school district, joint vocational school district, or local taxing unit that has a qualifying levy that was approved at an election conducted during 2005 before September 1, 2005, shall certify to the tax commissioner a copy of the county auditor's certificate of estimated property tax millage for such levy as required under division (B) of section 5705.03 of the Revised Code, which is the rate that shall be used in the calculations under such divisions.

If the amount determined under division (E) of this section for any school district, joint vocational school district, or local taxing unit is greater than zero, that amount shall equal the reimbursement to be paid pursuant to division (E) of section 5751.21 or division (A)(3) of section 5751.22 of the Revised Code, and the one-half of one mill that is subtracted under division (E)(2) of this section shall be apportioned among all contributing fixed-sum levies in the proportion that each levy bears to the sum of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit.

(F) If a school district levies a tax under section 5705.219 of the Revised Code, the fixed-rate levy loss for qualifying levies, to the extent repealed under that section, shall equal the sum of the following amounts in lieu of the amounts computed for such levies under division (D) of this section:

(1) The sum of the rates of qualifying levies to the extent so repealed multiplied by the sum of the machinery and equipment, inventory, and furniture and fixtures tax value losses for 2009 as determined under that division;

(2) The sum of the rates of qualifying levies to the extent so repealed multiplied by the telephone property tax value loss for 2011 as determined under that division.

The fixed-rate levy losses for qualifying levies to the extent not repealed under section 5705.219 of the Revised Code shall be as determined under division (D) of this section. The revised fixed-rate levy losses determined under this division and division (D) of this section first apply in the year following the first year the district levies the tax under section 5705.219 of the Revised Code.

(G) Not later than October 1, 2005, the tax commissioner shall certify to the department of education for every school district and joint vocational school district the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses determined under division (C) of this section, the machinery and equipment, inventory, furniture and fixtures, and telephone fixed-rate levy losses determined under division (D) of this section, and the fixed-sum levy losses calculated under division (E) of this section. The calculations under divisions (D) and (E) of this section shall separately display the levy loss for each levy eligible for reimbursement.

(H) Not later than October 1, 2005, the tax commissioner shall certify the amount of the fixed-sum levy losses to the county auditor of each county in which a school district, joint vocational school district, or local taxing unit with a fixed-sum levy loss reimbursement has territory.

(I) Not later than the twenty-eighth day of February each year beginning in 2011 and ending in 2014, the tax commissioner shall certify to the department of education for each school district first levying a tax under section 5705.219 of the Revised Code in the preceding year the revised fixed-rate levy losses determined under divisions (D) and (F) of this section.

(J)(1) There is hereby created in the state treasury the commercial activity tax motor fuel receipts fund.

(2)(a) On or before June 15, 2014, the director of the Ohio public works commission shall certify to the director of budget and management the amount of debt service paid from the general

revenue fund in fiscal years 2013 and 2014 on bonds issued to finance or assist in the financing of the cost of local subdivision public infrastructure capital improvement projects, as provided for in Sections 2k, 2m, 2p, and 2s of Article VIII, Ohio Constitution, that are attributable to costs for construction, reconstruction, maintenance, or repair of public highways and bridges and other statutory highway purposes. That certification shall allocate the total amount of debt service paid from the general revenue fund and attributable to those costs in each of fiscal years 2013 and 2014 according to the applicable section of the Ohio Constitution under which the bonds were originally issued.

(b) On or before June 30, 2014, the director of budget and management shall determine an amount up to but not exceeding the amount certified under division (J)(2)(a) of this section and shall reserve that amount from the cash balance in the commercial activity tax motor fuel receipts fund for transfer to the general revenue fund at times and in amounts to be determined by the director. The director shall transfer the cash balance in the commercial activity tax motor fuel receipts fund in excess of the amount so reserved to the highway operating fund on or before June 30, 2014.

(3)(a) On or before the fifteenth day of June of each fiscal year beginning with fiscal year 2015, the director of the Ohio public works commission shall certify to the director of budget and management the amount of debt service paid from the general revenue fund in the current fiscal year on bonds issued to finance or assist in the financing of the cost of local subdivision public infrastructure capital improvement projects, as provided for in Sections 2k, 2m, and 2p of Article VIII, Ohio Constitution, that are attributable to costs for construction, reconstruction, maintenance, or repair of public highways and bridges and other statutory highway purposes. That certification shall allocate the total amount of debt service paid from the general revenue fund and attributable to those costs in the current fiscal year according to the applicable section of the Ohio Constitution under which the bonds were originally issued.

(b) On or before the thirtieth day of June of each fiscal year beginning with fiscal year 2015, the director of budget and management shall determine an amount up to but not exceeding the amount certified under division (J)(3)(a) of this section and shall reserve that amount from the cash balance in the petroleum activity tax public highways fund or the commercial activity tax motor fuel receipts fund for transfer to the general revenue fund at times and in amounts to be determined by the director. The director shall transfer the cash balance in the petroleum activity tax public highways fund or the commercial activity tax motor fuel receipts fund in excess of the amount so reserved to the highway operating fund on or before the thirtieth day of June of the current fiscal year.

**Sec. 5751.21.** No determinations, computations, certifications, or payments shall be made under this section after June 30, 2015.

(A) Not later than the thirtieth day of July of 2007 through 2010, the department of education shall consult with the director of budget and management and determine the following for each school district and each joint vocational school district eligible for payment under division (B) of this section:

(1) The state education aid offset, which, except as provided in division (A)(1)(c) of this section, is the difference obtained by subtracting the amount described in division (A)(1)(b) of this section from the amount described in division (A)(1)(a) of this section:

(a) The state education aid computed for the school district or joint vocational school district

for the current fiscal year as of the thirtieth day of July;

(b) The state education aid that would be computed for the school district or joint vocational school district for the current fiscal year as of the thirtieth day of July if the valuation used in the calculation in division (B)(1) of section 3306.13 of the Revised Code as that division existed for fiscal years 2010 and 2011 included the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses for the school district or joint vocational school district for the second preceding tax year, and if taxes charged and payable associated with the tax value losses are accounted for in any state education aid computation dependent on taxes charged and payable.

(c) The state education aid offset for fiscal year 2010 and fiscal year 2011 equals the greater of the state education aid offset calculated for that fiscal year under divisions (A)(1)(a) and (b) of this section and the state education aid offset calculated for fiscal year 2009. For fiscal years 2012 and 2013, the state education aid offset equals the state education aid offset for fiscal year 2011.

(2) For fiscal years 2008 through 2011, the greater of zero or the difference obtained by subtracting the state education aid offset determined under division (A)(1) of this section from the sum of the machinery and equipment fixed-rate levy loss, the inventory fixed-rate levy loss, furniture and fixtures fixed-rate levy loss, and telephone property fixed-rate levy loss certified under divisions (G) and (I) of section 5751.20 of the Revised Code for all taxing districts in each school district and joint vocational school district for the second preceding tax year.

By the thirtieth day of July of each such year, the department of education and the director of budget and management shall agree upon the amount to be determined under division (A)(1) of this section.

(B) On or before the thirty-first day of August of 2008, 2009, and 2010, the department of education shall recalculate the offset described under division (A) of this section for the previous fiscal year and recalculate the payments made under division (C) of this section in the preceding fiscal year using the offset calculated under this division. If the payments calculated under this division differ from the payments made under division (C) of this section in the preceding fiscal year, the difference shall either be paid to a school district or recaptured from a school district through an adjustment at the same times during the current fiscal year that the payments under division (C) of this section are made. In August and October of the current fiscal year, the amount of each adjustment shall be three-sevenths of the amount calculated under this division. In May of the current fiscal year, the adjustment shall be one-seventh of the amount calculated under this division.

(C) The department of education shall pay from the school district tangible property tax replacement fund to each school district and joint vocational school district all of the following for fixed-rate levy losses certified under divisions (G) and (I) of section 5751.20 of the Revised Code:

- (1) On or before May 31, 2006, one-seventh of the total fixed-rate levy loss for tax year 2006;
- (2) On or before August 31, 2006, and October 31, 2006, one-half of six-sevenths of the total fixed-rate levy loss for tax year 2006;
- (3) On or before May 31, 2007, one-seventh of the total fixed-rate levy loss for tax year 2007;
- (4) On or before August 31, 2007, and October 31, 2007, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2008, but not less than zero, plus one-half of six-sevenths of the difference between the total fixed-rate levy loss for tax year 2007 and the total fixed-rate levy loss for tax year 2006.

(5) On or before May 31, 2008, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2008, but not less than zero, plus one-seventh of the difference between the total fixed-rate levy loss for tax year 2008 and the total fixed-rate levy loss for tax year 2006.

(6) On or before August 31, 2008, and October 31, 2008, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2009, but not less than zero, plus one-half of six-sevenths of the difference between the total fixed-rate levy loss in tax year 2008 and the total fixed-rate levy loss in tax year 2007.

(7) On or before May 31, 2009, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2009, but not less than zero, plus one-seventh of the difference between the total fixed-rate levy loss for tax year 2009 and the total fixed-rate levy loss for tax year 2007.

(8) On or before August 31, 2009, and October 31, 2009, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2010, but not less than zero, plus one-half of six-sevenths of the difference between the total fixed-rate levy loss in tax year 2009 and the total fixed-rate levy loss in tax year 2008.

(9) On or before May 31, 2010, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2010, but not less than zero, plus one-seventh of the difference between the total fixed-rate levy loss in tax year 2010 and the total fixed-rate levy loss in tax year 2008.

(10) On or before August 31, 2010, and October 31, 2010, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2011, but not less than zero, plus one-half of six-sevenths of the difference between the telephone property fixed-rate levy loss for tax year 2010 and the telephone property fixed-rate levy loss for tax year 2009.

(11) On or before May 31, 2011, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2011, but not less than zero, plus one-seventh of the difference between the telephone property fixed-rate levy loss for tax year 2011 and the telephone property fixed-rate levy loss for tax year 2009.

(12) For fiscal years 2012 and thereafter, the sum of the amounts in divisions (C)(12)(a) or (b) and (c) of this section shall be paid on or before the last day of November and the last day of May:

(a) If the ratio of current expense TPP allocation to total resources is equal to or less than the threshold per cent, zero;

(b) If the ratio of current expense TPP allocation to total resources is greater than the threshold per cent, fifty per cent of the difference of current expense TPP allocation minus the product of total resources multiplied by the threshold per cent;

(c) Fifty per cent of the product of non-current expense TPP allocation multiplied by seventy-five per cent for fiscal year 2012 and fifty per cent for fiscal years 2013 and thereafter.

The department of education shall report to each school district and joint vocational school district the apportionment of the payments among the school district's or joint vocational school district's funds based on the certifications under divisions (G) and (I) of section 5751.20 of the Revised Code.



(D) For taxes levied within the ten-mill limitation for debt purposes in tax year 2005, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2018, as long as the qualifying levy continues to be used for debt purposes. If the purpose of such a qualifying levy is changed, that levy becomes subject to the payments determined in division (C) of this section.

(E)(1) Not later than January 1, 2006, for each fixed-sum levy of each school district or joint vocational school district and for each year for which a determination is made under division (E) of section 5751.20 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the department of education the fixed-sum levy loss determined under that division. The certification shall cover a time period sufficient to include all fixed-sum levies for which the commissioner made such a determination. On or before the last day of May of the current year, the department shall pay from the school district property tax replacement fund to the school district or joint vocational school district one-third of the fixed-sum levy loss so certified, plus one-third of the amount certified under division (I) of section 5751.20 of the Revised Code, and on or before the last day of November, two-thirds of the fixed-sum levy loss so certified, plus two-thirds of the amount certified under division (I) of section 5751.20 of the Revised Code. Payments under this division of the amounts certified under division (I) of section 5751.20 of the Revised Code shall continue until the levy adopted under section 5705.219 of the Revised Code expires.

(2) Beginning in 2006, by the first day of January of each year, the tax commissioner shall review the certification originally made under division (E)(1) of this section. If the commissioner determines that a debt levy that had been scheduled to be reimbursed in the current year has expired, a revised certification for that and all subsequent years shall be made to the department of education.

(F) Beginning in September 2007 and through June 2013, the director of budget and management shall transfer from the school district tangible property tax replacement fund to the general revenue fund each of the following:

(1) On the first day of September, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section;

(2) On the first day of December, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section;

(3) On the first day of March, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section;

(4) On the first day of June, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section.

If, when a transfer is required under division (F)(1), (2), (3), or (4) of this section, there is not sufficient money in the school district tangible property tax replacement fund to make the transfer in the required amount, the director shall transfer the balance in the fund to the general revenue fund and may make additional transfers on later dates as determined by the director in a total amount that does not exceed one-fourth of the amount determined for the fiscal year.

(G) If the total amount in the school district tangible property tax replacement fund is insufficient to make all payments under divisions (C), (D), and (E) of this section at the times the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the school district tangible property tax replacement fund the difference between the

total amount to be paid and the amount in the school district tangible property tax replacement fund.

(H) On the fifteenth day of June of each year, the director of budget and management may transfer any balance in the school district tangible property tax replacement fund to the general revenue fund.

(I) If all of the territory of a school district or joint vocational school district is merged with another district, or if a part of the territory of a school district or joint vocational school district is transferred to an existing or newly created district, the department of education, in consultation with the tax commissioner, shall adjust the payments made under this section as follows:

(1) For a merger of two or more districts, the fixed-sum levy losses, total resources, current expense TPP allocation, total TPP allocation, and non-current expense TPP allocation of the successor district shall be the sum of such items for each of the districts involved in the merger.

(2) If property is transferred from one district to a previously existing district, the amount of total resources, current expense TPP allocation, total TPP allocation, and non-current expense TPP allocation that shall be transferred to the recipient district shall be an amount equal to total resources, current expense TPP allocation, total TPP allocation, and non-current expense TPP allocation of the transferor district times a fraction, the numerator of which is the number of pupils being transferred to the recipient district, measured, in the case of a school district, by formula ADM as that term is defined in section 3317.02 of the Revised Code or, in the case of a joint vocational school district, by formula ADM as defined for a joint vocational school district in that section, and the denominator of which is the formula ADM of the transferor district.

(3) After December 31, 2010, if property is transferred from one or more districts to a district that is newly created out of the transferred property, the newly created district shall be deemed not to have any total resources, current expense TPP allocation, total TPP allocation, or non-current expense TPP allocation.

(4) If the recipient district under division (I)(2) of this section or the newly created district under division (I)(3) of this section is assuming debt from one or more of the districts from which the property was transferred and any of the districts losing the property had fixed-sum levy losses, the department of education, in consultation with the tax commissioner, shall make an equitable division of the fixed-sum levy loss reimbursements.

**Sec. 5751.22.** No determinations, computations, certifications, or payments shall be made under this section after June 30, 2015.

(A) Not later than January 1, 2006, the tax commissioner shall compute the payments to be made to each local taxing unit, and to each public library that receives the proceeds of a tax levied under section 5705.23 of the Revised Code, for each year according to divisions (A)(1), (2), (3), and (4) of this section as this section existed on that date, and shall distribute the payments in the manner prescribed by division (C) of this section. The calculation of the fixed-sum levy loss shall cover a time period sufficient to include all fixed-sum levies for which the commissioner determined, pursuant to division (E) of section 5751.20 of the Revised Code, that a fixed-sum levy loss is to be reimbursed.

(1) Except as provided in division (A)(3) of this section, for fixed-rate levy losses determined under division (D) of section 5751.20 of the Revised Code, payments shall be made in an amount equal to the following:

- (a) For tax years 2006 through 2010, one hundred per cent of such losses;
  - (b) For the payment in tax year 2011 to be made on or before the twentieth day of November, the sum of the amount in division (A)(1)(b)(i) or (ii) and division (A)(1)(b)(iii) of this section:
    - (i) If the ratio of six-sevenths of the TPP allocation to total resources is equal to or less than the threshold per cent, zero;
    - (ii) If the ratio of six-sevenths of the TPP allocation to total resources is greater than the threshold per cent, the difference of six-sevenths of the TPP allocation minus the product of total resources multiplied by the threshold per cent;
    - (iii) In the case of a municipal corporation, six-sevenths of the product of the non-current expense TPP allocation multiplied by seventy-five per cent.
  - (c) For tax years 2012 and thereafter, the sum of the amount in division (A)(1)(c)(i) or (ii) and division (A)(1)(c)(iii) of this section:
    - (i) If the ratio of TPP allocation to total resources is equal to or less than the threshold per cent, zero;
    - (ii) If the ratio of TPP allocation to total resources is greater than the threshold per cent, the TPP allocation minus the product of total resources multiplied by the threshold per cent;
    - (iii) In the case of a municipal corporation, non-current expense TPP allocation multiplied by fifty per cent for tax year 2012 and twenty-five per cent for tax years 2013 and thereafter;
  - (d) For tax years 2012 and thereafter, in the case of a county, school district, municipal corporation, or township public library, the amount in division (A)(1)(d)(i) or (ii) of this section:
    - (i) If the ratio of TPP allocation for library purposes to total library resources is equal to or less than the threshold per cent, zero;
    - (ii) If the ratio of TPP allocation for library purposes to total library resources is greater than the threshold per cent, the TPP allocation for library purposes minus the product of total library resources multiplied by the threshold per cent.
- (2) For fixed-sum levy losses determined under division (E) of section 5751.20 of the Revised Code, payments shall be made in the amount of one hundred per cent of the fixed-sum levy loss for payments required to be made in 2006 through 2011, except that no payments shall be made for qualifying levies that have expired. For payments required to be made in 2012 and thereafter, payments shall be made in the amount of fifty per cent of the fixed-sum levy loss until the qualifying levy has expired.
- (3) For taxes levied within the ten-mill limitation or pursuant to a municipal charter for debt purposes in tax year 2005, payments shall be made based on the schedule in division (A)(1) of this section for each of the calendar years 2006 through 2010. For each of the calendar years 2011 through 2017, the percentages for calendar year 2010 shall be used for taxes levied within the ten-mill limitation or pursuant to a municipal charter for debt purposes in tax year 2010, as long as such levies continue to be used for debt purposes. If the purpose of such a qualifying levy is changed, that levy becomes subject to the payment schedules in divisions (A)(1)(a) to (h) of this section. No payments shall be made for such levies after calendar year 2017. For the purposes of this division, taxes levied pursuant to a municipal charter refer to taxes levied pursuant to a provision of a municipal charter that permits the tax to be levied without prior voter approval.
- (B) Beginning in 2007, by the thirty-first day of January of each year, the tax commissioner

shall review the calculation originally made under division (A) of this section of the fixed-sum levy losses determined under division (E) of section 5751.20 of the Revised Code. If the commissioner determines that a fixed-sum levy that had been scheduled to be reimbursed in the current year has expired, a revised calculation for that and all subsequent years shall be made.

(C) Payments to local taxing units and public libraries required to be made under division (A) of this section shall be paid from the local government tangible property tax replacement fund to the county undivided income tax fund in the proper county treasury. From May 2006 through November 2010, one-seventh of the amount determined under that division shall be paid by the last day of May each year, and three-sevenths shall be paid by the last day of August and October each year. From May 2011 through November 2013, one-seventh of the amount determined under that division shall be paid on or before the last day of May each year, and six-sevenths shall be paid on or before the thirtieth day of November each year, except that in November 2011, the payment shall equal one hundred per cent of the amount calculated for that payment. Beginning in May 2014, one-half of the amount determined under that division shall be paid on or before the last day of May each year, and one-half shall be paid on or before the thirtieth day of November each year. Within thirty days after receipt of such payments, the county treasurer shall distribute amounts determined under division (A) of this section to the proper local taxing unit or public library as if they had been levied and collected as taxes, and the local taxing unit or public library shall apportion the amounts so received among its funds in the same proportions as if those amounts had been levied and collected as taxes.

(D) For each of the fiscal years 2006 through 2018, if the total amount in the local government tangible property tax replacement fund is insufficient to make all payments under division (C) of this section at the times the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the local government tangible property tax replacement fund the difference between the total amount to be paid and the amount in the local government tangible property tax replacement fund. For each fiscal year after 2018, at the time payments under division (A)(2) of this section are to be made, the director of budget and management shall transfer from the general revenue fund to the local government property tax replacement fund the amount necessary to make such payments.

(E) On the fifteenth day of June of each year from 2006 through 2018, the director of budget and management may transfer any balance in the local government tangible property tax replacement fund to the general revenue fund.

(F) If all or a part of the territories of two or more local taxing units are merged, or unincorporated territory of a township is annexed by a municipal corporation, the tax commissioner shall adjust the payments made under this section to each of the local taxing units in proportion to the square mileage of the merged or annexed territory as a percentage of the total square mileage of the jurisdiction from which the territory originated, or as otherwise provided by a written agreement between the legislative authorities of the local taxing units certified to the commissioner not later than the first day of June of the calendar year in which the payment is to be made.

**Sec. 5751.50.** (A) For tax periods beginning on or after January 1, 2008, a refundable credit granted by the tax credit authority under section 122.17 or former division (B)(2) or (3) of section 122.171 of the Revised Code, as those divisions existed before September 29, 2015, the effective date of the amendment of this section by H.B. 64 of the 131st general assembly, may be claimed

under this chapter in the order required under section 5751.98 of the Revised Code. For purposes of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid to this state on the first day of the tax period. A credit claimed in calendar year 2008 may not be applied against the tax otherwise due for a tax period beginning before July 1, 2008. The refundable credit shall not be claimed against the tax otherwise due for any tax period beginning after the date on which a relocation of employment positions occurs in violation of an agreement entered into under section 122.17 or 122.171 of the Revised Code.

(B) For tax periods beginning on or after January 1, 2008, a nonrefundable credit granted by the tax credit authority under division (B) of section 122.171 of the Revised Code may be claimed under this chapter in the order required under section 5751.98 of the Revised Code. A credit claimed in calendar year 2008 may not be applied against the tax otherwise due under this chapter for a tax period beginning before July 1, 2008. The credit shall not be claimed against the tax otherwise due for any tax period beginning after the date on which a relocation of employment positions occurs in violation of an agreement entered into under section 122.17 or 122.171 of the Revised Code. No credit shall be allowed under this chapter if the credit was available against the tax imposed by section 5733.06 or 5747.02 of the Revised Code, except to the extent the credit was not applied against such tax.

**Sec. 5902.02.** The duties of the director of veterans services shall include the following:

(A) Furnishing the veterans service commissions of all counties of the state copies of the state laws, rules, and legislation relating to the operation of the commissions and their offices;

(B) Upon application, assisting the general public in obtaining records of vital statistics pertaining to veterans or their dependents;

(C) Adopting rules pursuant to Chapter 119. of the Revised Code pertaining to minimum qualifications for hiring, certifying, and accrediting county veterans service officers, pertaining to their required duties, and pertaining to revocation of the certification of county veterans service officers;

(D) Adopting rules pursuant to Chapter 119. of the Revised Code for the education, training, certification, and duties of veterans service commissioners and for the revocation of the certification of a veterans service commissioner;

(E) Developing and monitoring programs and agreements enhancing employment and training for veterans in single or multiple county areas;

(F) Developing and monitoring programs and agreements to enable county veterans service commissions to address homelessness, indigency, and other veteran-related issues individually or jointly;

(G) Developing and monitoring programs and agreements to enable state agencies, individually or jointly, that provide services to veterans, including the veterans' homes operated under Chapter 5907. of the Revised Code and the director of job and family services, to address homelessness, indigency, employment, and other veteran-related issues;

(H) Establishing and providing statistical reporting formats and procedures for county veterans service commissions;

(I) Publishing electronically a listing of county veterans service offices and county veterans service commissioners. The listing shall include the expiration dates of commission members' terms

of office and the organizations they represent; the names, addresses, and telephone numbers of county veterans service offices; and the addresses and telephone numbers of the Ohio offices and headquarters of state and national veterans service organizations.

(J) Establishing a veterans advisory committee to advise and assist the department of veterans services in its duties. Members shall include a member of the national guard association of the United States who is a resident of this state, a member of the military officers association of America who is a resident of this state, a state representative of congressionally chartered veterans organizations referred to in section 5901.02 of the Revised Code, a representative of any other congressionally chartered state veterans organization that has at least one veterans service commissioner in the state, three representatives of the Ohio state association of county veterans service commissioners, who shall have a combined vote of one, three representatives of the state association of county veterans service officers, who shall have a combined vote of one, one representative of the county commissioners association of Ohio, who shall be a county commissioner not from the same county as any of the other county representatives, a representative of the advisory committee on women veterans, a representative of a labor organization, and a representative of the office of the attorney general. The department of veterans services shall submit to the advisory committee proposed rules for the committee's operation. The committee may review and revise these proposed rules prior to submitting them to the joint committee on agency rule review.

(K) Adopting, with the advice and assistance of the veterans advisory committee, policy and procedural guidelines that the veterans service commissions shall adhere to in the development and implementation of rules, policies, procedures, and guidelines for the administration of Chapter 5901. of the Revised Code. The department of veterans services shall adopt no guidelines or rules regulating the purposes, scope, duration, or amounts of financial assistance provided to applicants pursuant to sections 5901.01 to 5901.15 of the Revised Code. The director of veterans services may obtain opinions from the office of the attorney general regarding rules, policies, procedures, and guidelines of the veterans service commissions and may enforce compliance with Chapter 5901. of the Revised Code.

(L) Receiving copies of form DD214 filed in accordance with the director's guidelines adopted under division (L) of this section from members of veterans service commissions appointed under section 5901.02 and from county veterans service officers employed under section 5901.07 of the Revised Code;

(M) Developing and maintaining and improving a resource, such as a telephone answering point or a web site, by means of which veterans and their dependents, through a single portal, can access multiple sources of information and interaction with regard to the rights of, and the benefits available to, veterans and their dependents. The director of veterans services may enter into agreements with state and federal agencies, with agencies of political subdivisions, with state and local instrumentalities, and with private entities as necessary to make the resource as complete as is possible.

(N) Planning, organizing, advertising, and conducting outreach efforts, such as conferences and fairs, at which veterans and their dependents may meet, learn about the organization and operation of the department of veterans services and of veterans service commissions, and obtain information about the rights of, and the benefits and services available to, veterans and their

dependents;

(O) Advertising, in print, on radio and television, and otherwise, the rights of, and the benefits and services available to, veterans and their dependents;

(P) Developing and advocating improved benefits and services for, and improved delivery of benefits and services to, veterans and their dependents;

(Q) Searching for, identifying, and reviewing statutory and administrative policies that relate to veterans and their dependents and reporting to the general assembly statutory and administrative policies that should be consolidated in whole or in part within the organization of the department of veterans services to unify funding, delivery, and accounting of statutory and administrative policy expressions that relate particularly to veterans and their dependents;

(R) Encouraging veterans service commissions to innovate and otherwise to improve efficiency in delivering benefits and services to veterans and their dependents and to report successful innovations and efficiencies to the director of veterans services;

(S) Publishing and encouraging adoption of successful innovations and efficiencies veterans service commissions have achieved in delivering benefits and services to veterans and their dependents;

(T) Establishing advisory committees, in addition to the veterans advisory committee established under division (K) of this section, on veterans issues;

(U) Developing and maintaining a relationship with the United States department of veterans affairs, seeking optimal federal benefits and services for Ohio veterans and their dependents, and encouraging veterans service commissions to maximize the federal benefits and services to which veterans and their dependents are entitled;

(V) Developing and maintaining relationships with the several veterans organizations, encouraging the organizations in their efforts at assisting veterans and their dependents, and advocating for adequate state subsidization of the organizations;

(W) Requiring the several veterans organizations that receive funding from the state annually, not later than the thirtieth day of July, to report to the director of veterans services and prescribing the form and content of the report;

(X) Reviewing the reports submitted to the director under division (W) of this section within thirty days of receipt and informing the veterans organization of any deficiencies that exist in the organization's report and that funding will not be released until the deficiencies have been corrected and a satisfactory report submitted;

(Y) Releasing funds and processing payments to veterans organizations when a report submitted to the director under division (W) of this section has been reviewed and determined to be satisfactory;

(Z) Furnishing copies of all reports that the director of veterans services has determined have been submitted satisfactorily under division (W) of this section to the chairperson of the finance committees of the general assembly;

(AA) Investigating complaints against county veterans services commissioners and county veterans service officers if the director reasonably believes the investigation to be appropriate and necessary;

(BB) Developing and maintaining a web site that is accessible by veterans and their

dependents and provides a link to the web site of each state agency that issues a license, certificate, or other authorization permitting an individual to engage in an occupation or occupational activity;

(CC) Encouraging state agencies to conduct outreach efforts through which veterans and their dependents can learn about available job and education benefits;

(DD) Informing state agencies about changes in statutes and rules that affect veterans and their dependents;

(EE) Assisting licensing agencies in adopting rules under section 5903.03 of the Revised Code;

(FF) Administering the provision of grants from the military injury relief fund under section 5902.05 of the Revised Code;

(GG) Taking any other actions required by this chapter.

**Sec. 5401-98 5902.05.** (A) There is hereby created in the state treasury the military injury relief fund, which shall consist of money contributed to it under sections 4503.535 and 5747.113 of the Revised Code, of incentive grants authorized by the "Jobs for Veterans Act," 116 Stat. 2033 (2002), and of contributions made directly to it. Any person or entity may contribute directly to the fund in addition to or independently of the income tax refund contribution system established in section 5747.113 of the Revised Code.

(B) Upon application, the director of job and family services shall grant money in the fund to individuals injured while in active service as a member of the armed forces of the United States while serving under operation Iraqi freedom, operation new dawn, or operation enduring freedom and to individuals diagnosed with post-traumatic stress disorder while serving, or after having served, in operation Iraqi freedom, operation new dawn, or operation enduring freedom.

(C) An individual who receives a grant under this section is precluded from receiving additional grants under this section during the same state fiscal year but is not precluded from being considered for or receiving other assistance offered by the department of job and family services.

(D) The director shall adopt rules under Chapter 119. of the Revised Code establishing:

(1) Forms and procedures by which individuals may apply for a grant under this section;

(2) Criteria for reviewing, evaluating, and approving or denying grant applications;

(3) Criteria for determining the amount of grants awarded under this section;

(4) Definitions and standards applicable to determining whether an individual meets the requirements established in division (B) of this section;

(5) The process for appealing eligibility determinations; and

(6) Any other rules necessary to administer the grant program established in this section.

(E) An eligibility determination, a grant approval, or a grant denial made under this section may not be appealed under Chapter 119., section 5101.35, or any other provision of the Revised Code.

**Sec. 5903.12.** (A) As used in this section:

"Continuing education" means continuing education required of a licensee by law and includes, but is not limited to, the continuing education required of licensees under sections 3737.881, 3781.10, 4701.11, 4715.141, 4715.25, 4717.09, 4723.24, 4725.16, 4725.51, 4730.14, 4730.49, 4731.155, 4731.282, 4734.25, 4735.141, 4736.11, 4741.16, 4741.19, 4751.07, 4755.63, 4757.33, 4759.06, 4761.06, and 4763.07 of the Revised Code.



"Reporting period" means the period of time during which a licensee must complete the number of hours of continuing education required of the licensee by law.

(B) A licensee may submit an application to a licensing agency, stating that the licensee requires an extension of the current reporting period because the licensee has served on active duty during the current or a prior reporting period. The licensee shall submit proper documentation certifying the active duty service and the length of that active duty service. Upon receiving the application and proper documentation, the licensing agency shall extend the current reporting period by an amount of time equal to the total number of months that the licensee spent on active duty during the current reporting period. For purposes of this division, any portion of a month served on active duty shall be considered one full month.

**Sec. 5904.01.** (A) There is hereby created the Ohio veterans hall of fame. The department of veterans services shall serve as the veterans hall of fame's administrative agent. The veterans hall of fame shall recognize the post-military achievements of outstanding veterans and spotlight all veterans' contributions to the civilian workplace.

(B) The Ohio veterans hall of fame shall have an executive committee composed of thirteen members, all of whom shall be veterans. The director of veterans services shall be an ex officio member. The department of veterans services' veterans advisory committee, the advisory committee on women veterans, the Ohio veterans hall of fame foundation, the Veterans of Foreign Wars, the Disabled American Veterans, the AMVETS, the Vietnam Veterans of America, and the American Legion shall each appoint one member.

The Ohio veterans hall of fame executive committee shall appoint its final four members, one of whom shall be from any veterans organization that is incorporated in this state and that is not otherwise represented on the executive committee, one of whom was inducted into the veterans hall of fame three years before the current fiscal year, one of whom was inducted into the veterans hall of fame two years before the current fiscal year, and one of whom was inducted into the veterans hall of fame one year before the current fiscal year.

(C) Terms of office of the members of the Ohio veterans hall of fame executive committee shall be for three years. Each member shall serve subsequent to the expiration of the member's term until the member's successor is appointed, or until sixty days has elapsed, whichever occurs first. No member shall serve more than two consecutive terms.

(D) All vacancies in the membership of the Ohio veterans hall of fame executive committee shall be filled in the same manner as prescribed for original appointments, and the terms of the appointees shall be limited to the unexpired terms.

(E) The members of the Ohio veterans hall of fame executive committee shall serve without compensation, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.

(F) The Ohio veterans hall of fame executive committee shall elect a chairperson and vice-chairperson from its membership. It shall meet annually to select inductees for the veterans hall of fame from the persons nominated in a manner prescribed by the executive committee. The names of selected inductees shall be submitted to the governor for final approval. The governor shall provide any final approval within thirty days after the executive committee submits the names of the selected inductees. The governor may reject any of the selected inductees for cause, but shall not make any

additions to the list of those inductees.

(G) All state elected officials, members of the general assembly, members of the Ohio veterans hall of fame foundation, members of the veterans hall of fame executive committee, members of the governor's staff, members of the veterans hall of fame staff, and members of any county veterans service commission, and the director of veterans services, shall not be eligible for induction into the veterans hall of fame until two years after having vacated that position. The executive committee may waive the two-year moratorium for such a person who is over seventy years of age and who currently holds such a position or has vacated such a position.

(H) The Ohio veterans hall of fame executive committee is not subject to sections 101.82 to 101.87 of the Revised Code.

**Sec. 5910.08.** There is hereby created in the state treasury the war orphans scholarship reserve fund. As soon as possible following the end of each fiscal year, the chancellor of higher education shall certify to the director of budget and management the unencumbered balance of the general revenue fund appropriations made in the immediately preceding fiscal year for purposes of the war orphans scholarship program created in Chapter 5910. of the Revised Code. Upon receipt of the certification, the director of budget and management may transfer an amount not exceeding the certified amount from the general revenue fund to the war orphans scholarship reserve fund. Moneys in the war orphans scholarship reserve fund shall be used to pay scholarship obligations in excess of the general revenue fund appropriations made for that purpose.

The director of budget and management may transfer any unencumbered balance from the war orphans scholarship reserve fund to the general revenue fund.

If it is determined that general revenue fund appropriations are insufficient to meet the obligations of the war orphans scholarship in a fiscal year, the director of budget and management may transfer funds from the war orphans scholarship reserve fund to the general revenue fund in order to meet those obligations. The amount transferred is hereby appropriated. If the funds transferred from the war orphans scholarship reserve fund are not needed, the director of budget and management may transfer the unexpended balance from the general revenue fund back to the war orphans scholarship reserve fund.

**Sec. 5913.12.**

**Sec. 5913.13.**

**Sec. 5913.14.**

**Sec. 5919.341.** There is hereby created in the state treasury the national guard scholarship reserve fund. As soon as possible following the end of each fiscal year, the chancellor of higher education shall certify to the director of budget and management the unencumbered balance of the general revenue fund appropriations made in the immediately preceding fiscal year for purposes of the Ohio national guard scholarship program created under division (B) of section 5919.34 of the Revised Code. Upon receipt of the certification, the director of budget and management may transfer an amount not exceeding the certified amount from the general revenue fund to the national guard scholarship reserve fund. Moneys in the national guard scholarship reserve fund shall be used to pay scholarship obligations in excess of the general revenue fund appropriations made for that purpose.

The director of budget and management may transfer any unencumbered balance from the national guard scholarship reserve fund to the general revenue fund.

If it is determined that general revenue fund appropriations are insufficient to meet the obligations of the national guard scholarship in a fiscal year, the director of budget and management may transfer funds from the national guard scholarship reserve fund to the general revenue fund in order to meet those obligations. The amount transferred is hereby appropriated. If the funds transferred from the national guard scholarship reserve fund are not needed, the director of budget and management may transfer the unexpended balance from the general revenue fund back to the national guard scholarship reserve fund.

**Sec. 6101.16.** When it is determined to let the work relating to the improvements for which a conservancy district was established by contract, contracts in amounts to exceed fifty thousand dollars shall be advertised after notice calling for bids has been published once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, with the last publication to occur at least eight days prior to the date on which bids will be accepted, in a newspaper of general circulation within the conservancy district where the work is to be done. If the bids are for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, the board of directors of the conservancy district may let the contract to the lowest responsive and most responsible bidder who meets the requirements of section 153.54 of the Revised Code. If the bids are for a contract for any other work relating to the improvements for which a conservancy district was established, the board of directors of the district may let the contract to the lowest responsive and most responsible bidder who gives a good and approved bond, with ample security, conditioned on the carrying out of the contract. The contract shall be in writing and shall be accompanied by or refer to plans and specifications for the work to be done prepared by the chief engineer. The plans and specifications shall at all times be made and considered a part of the contract. The contract shall be approved by the board and signed by the president of the board and by the contractor and shall be executed in duplicate. In case of sudden emergency when it is necessary in order to protect the district, the advertising of contracts may be waived upon the consent of the board, with the approval of the court or a judge of the court of common pleas of the county in which the office of the district is located.

**Sec. 6109.21.** (A) Except as provided in divisions (I) and (J) of this section, no person shall operate a public water system in this state without a license issued by the director of environmental protection.

(B) A person who proposes to operate a new public water system, in addition to complying with section 6109.07 of the Revised Code and rules adopted under it, shall obtain an initial license from the director. The person shall submit an application for the initial license at least forty-five days prior to commencing the operation of the system.

(C) A license shall expire on the thirtieth day of January in the year following its issuance.

(D) A license shall be renewed annually. A person proposing to continue operating a public water system shall apply for a license renewal at least thirty days prior to the expiration date of the license.

(E) Each application for a license or license renewal shall be accompanied by the appropriate fee established under division (M) of section 3745.11 of the Revised Code. However, an applicant for an initial license who is proposing to operate a new public water system shall submit a fee that equals a prorated amount of the appropriate fee established under that division for the remainder of the

licensing year.

(F) Not later than thirty days after receiving a completed application and the appropriate license fee for a license or license renewal for a public water system, the director shall do one of the following:

- (1) Issue the license or license renewal for the public water system;
- (2) Issue the license or license renewal subject to terms and conditions that the director determines are necessary to ensure compliance with this chapter and rules adopted under it;
- (3) Deny the license or license renewal if the director finds that the public water system cannot be operated in substantial compliance with this chapter and rules adopted under it.

(G) The director may condition, suspend, or revoke a license or license renewal issued under this section at any time if the director finds that the public water system was not or will not be operated in substantial compliance with this chapter and rules adopted under it.

(H) The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures and requirements governing both of the following:

(1) Information to be included on applications for licenses and license renewals issued under this section;

(2) The issuance, conditioning, suspension, revocation, and denial of licenses and license renewals under this section.

(I)(1) As used in division (I) of this section, "church" means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed or operated for the private profit of any person.

(2) This section does not apply to a church that operates or maintains a public water system solely to provide water for that church or for a campground that is owned by the church and operated primarily or exclusively for members of the church and their families.

(J) This section does not apply to any public or nonpublic school that meets minimum standards of the state board of education that operates or maintains a public water system solely to provide water for that school.

(K) The environmental protection agency shall collect well log filing fees on behalf of the division of water resources in the department of natural resources in accordance with section 1521.05 of the Revised Code and rules adopted under it. The fees shall be submitted to the division quarterly as provided in those rules.

**Sec. 6109.30.** (A) There is hereby created in the state treasury the drinking water protection fund, which shall be administered by the director of environmental protection. The fund shall consist of moneys distributed to it and shall be used for all of the following purposes:

- (1) Administration of this chapter and rules adopted under it;
- (2) Administration in this state of the Safe Drinking Water Act;
- (3) Provision of technical assistance to public water systems in this state for the purposes of this chapter and rules adopted under it;
- (4) Special studies conducted by the director for the monitoring and testing of drinking water quality in this state;
- (5) Support of programs for the prevention of contamination of surface and ground water supplies in this state that are sources of drinking water.

(B) The director may expend not more than two hundred thousand dollars from the fund in each fiscal year for the purpose of making loans to owners and operators of public water systems for emergency remediation of threats of contamination to public water supplies. The director shall not loan more than twenty-five thousand dollars to the owner or operator of any single public water system. The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code establishing application procedures and requirements for those loans. The rules shall require that an owner or operator receiving a loan under this division repay the loan to the fund not later than twelve months after receiving it.

**Sec. 6111.01.** As used in this chapter:

(A) "Pollution" means the placing of any sewage, sludge, sludge materials, industrial waste, or other wastes in any waters of the state.

(B) "Sewage" means any liquid waste containing sludge, sludge materials, or animal or vegetable matter in suspension or solution, and may include household wastes as commonly discharged from residences and from commercial, institutional, or similar facilities.

(C) "Industrial waste" means any liquid, gaseous, or solid waste substance resulting from any process of industry, manufacture, trade, or business, or from the development, processing, or recovery of any natural resource, together with such sewage as is present.

(D) "Other wastes" means garbage, refuse, decayed wood, sawdust, shavings, bark, and other wood debris, lime, sand, ashes, offal, night soil, oil, tar, coal dust, dredged or fill material, or silt, other substances that are not sewage, sludge, sludge materials, or industrial waste, and any other "pollutants" or "toxic pollutants" as defined in the Federal Water Pollution Control Act that are not sewage, sludge, sludge materials, or industrial waste.

(E) "Sewerage system" means pipelines or conduits, pumping stations, and force mains, and all other constructions, devices, appurtenances, and facilities used for collecting or conducting water-borne sewage, industrial waste, or other wastes to a point of disposal or treatment, but does not include plumbing fixtures, building drains and subdrains, building sewers, and building storm sewers.

(F) "Treatment works" means any plant, disposal field, lagoon, dam, pumping station, building sewer connected directly to treatment works, incinerator, or other works used for the purpose of treating, stabilizing, blending, composting, or holding sewage, sludge, sludge materials, industrial waste, or other wastes, except as otherwise defined.

(G) "Disposal system" means a system for disposing of sewage, sludge, sludge materials, industrial waste, or other wastes and includes sewerage systems and treatment works.

(H) "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and other bodies or accumulations of water, surface and underground, natural or artificial, regardless of the depth of the strata in which underground water is located, that are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters that do not combine or effect a junction with natural surface or underground waters.

(I) "Person" means the state, any municipal corporation, any other political subdivision of the state, any person as defined in section 1.59 of the Revised Code, any interstate body created by compact, or the federal government or any department, agency, or instrumentality thereof.

(J) "Industrial water pollution control facility" means any disposal system or any treatment works, pretreatment works, appliance, equipment, machinery, pipeline or conduit, pumping station, force main, or installation constructed, used, or placed in operation primarily for the purpose of collecting or conducting industrial waste to a point of disposal or treatment; reducing, controlling, or eliminating water pollution caused by industrial waste; or reducing, controlling, or eliminating the discharge into a disposal system of industrial waste or what would be industrial waste if discharged into the waters of the state.

(K) "Schedule of compliance" means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with standards and rules adopted under sections 6111.041 and 6111.042 of the Revised Code or compliance with terms and conditions of permits set under division (J) of section 6111.03 of the Revised Code.

(L) "Federal Water Pollution Control Act" means the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended by the "Clean Water Act of 1977," 91 Stat. 1566, 33 U.S.C.A. 1251, and all other amendments to that act.

(M) "Historically channelized watercourse" means the portion of a watercourse on which an improvement, as defined in divisions (C)(2) to (4) of section 6131.01 of the Revised Code, was constructed pursuant to Chapter 940., 6131., or 6133. of the Revised Code or a similar state law that preceded any of those chapters and authorized such an improvement.

(N) "Sludge" means sewage sludge and a solid, semi-solid, or liquid residue that is generated from an industrial wastewater treatment process and that is applied to land for agronomic benefit. "Sludge" does not include ash generated during the firing of sludge in a sludge incinerator, grit and screening generated during preliminary treatment of sewage in a treatment works, animal manure, residue generated during treatment of animal manure, or domestic septage.

(O) "Sludge materials" means solid, semi-solid, or liquid materials derived from sludge and includes products from a treatment works that result from the treatment, blending, or composting of sludge.

(P) "Storage of sludge" means the placement of sludge on land on which the sludge remains for not longer than two years, but does not include the placement of sludge on land for treatment.

(Q) "Sludge disposal program" means any program used by an entity that begins with the generation of sludge and includes treatment or disposal of the sludge, as "treatment" and "disposal" are defined in division (Y) of section 3745.11 of the Revised Code.

(R) "Agronomic benefit" means any process that promotes or enhances plant growth and includes, but is not limited to, a process that increases soil fertility and moisture retention.

(S) "Sludge management" means the use, storage, treatment, or disposal of, and management practices related to, sludge and sludge materials.

(T) "Sludge management permit" means a permit for sludge management that is issued under division (J) of section 6111.03 of the Revised Code.

(U) "Sewage sludge" has the same meaning as in division (Y) of section 3745.11 of the Revised Code.

**Sec. 6111.02.** As used in this section and sections 6111.021 to 6111.028 of the Revised Code:

(A) "Category 1 wetland," "category 2 wetland," or "category 3 wetland" means a category 1 wetland, category 2 wetland, or category 3 wetland, respectively, as described in rule 3745-1-54 of

the Administrative Code, as that rule existed on July 17, 2001, and as determined to be a category 1, category 2, or category 3 wetland, respectively, through application of the "Ohio rapid assessment method for wetlands version 5.0," including the Ohio rapid assessment method for wetlands version 5.0 quantitative score calibration dated August 15, 2000, unless an application for a section 401 water quality certification was submitted prior to February 28, 2001, in which case the applicant for the permit may elect to proceed in accordance with Ohio rapid assessment method for wetlands version 4.1.

(B) "Creation" means the establishment of a wetland where one did not formerly exist and that involves wetland construction on nonhydric soils.

(C) "Enhancement" means activities conducted in an existing wetland to improve or repair existing or natural wetland functions and values of that wetland.

(D) "Fill material" means any material that is used to fill an aquatic area, to replace an aquatic area with dry land, or to change the bottom elevation of a wetland for any purpose and that consists of suitable material that is free from toxic contaminants in other than trace quantities. "Fill material" does not include either of the following:

(1) Material resulting from normal farming, silviculture, and ranching activities, such as plowing, cultivating, seeding, and harvesting, for the production of food, fiber, and forest products;

(2) Material placed for the purpose of maintenance of existing structures, including emergency reconstruction of recently damaged parts of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures.

(E) "Filling" means the addition of fill material into a wetland for the purpose of creating upland, changing the bottom elevation of the wetland, or creating impoundments of water. "Filling" includes, without limitation, the placement of the following in wetlands: fill material that is necessary for the construction of any structure; structures or impoundments requiring rock, sand, dirt, or other material for its construction; site-development fills for recreational, industrial, commercial, residential, or other uses; causeways or road fills; dams and dikes; artificial islands, property protection, or reclamation devices such as riprap, groins, seawalls, breakwalls, and bulkheads and fills; beach nourishment; levees; sanitary landfills; fill material for structures such as sewage treatment facilities, intake and outfall pipes associated with power plants, and underwater utility lines; and artificial reefs.

(F) "Isolated wetland" means a wetland that is not subject to regulation under the Federal Water Pollution Control Act.

(G) "Mitigation" means the restoration, creation, enhancement, or, in exceptional circumstances, preservation of wetlands expressly for the purpose of compensating for wetland impacts.

(H) "Mitigation bank service area" means the designated area where a mitigation bank can reasonably be expected to provide appropriate compensation for impacts to wetlands and other aquatic resources and that is designated as such in accordance with the process established in 33 C.F.R. 332.8 and 40 C.F.R. 230.98.

(I) "Off-site mitigation" means wetland restoration, creation, enhancement, or preservation occurring farther than one mile from a project boundary, but within the same watershed.

(J) "On-site mitigation" means wetland restoration, creation, enhancement, or preservation occurring within and not more than one mile from the project boundary and within the same watershed.

(K) "Practicable" means available and capable of being executed with existing technology and without significant adverse effect on the economic feasibility of the project in light of the overall project purposes and in consideration of the relative environmental benefit.

(L) "Preservation" means the long-term protection of ecologically important wetlands through the implementation of appropriate legal mechanisms to prevent harm to the wetlands. "Preservation" may include protection of adjacent upland areas as necessary to ensure protection of a wetland.

(M) "Restoration" means the reestablishment of a previously existing wetland at a site where it has ceased to exist.

(N) "State isolated wetland permit" means a permit issued in accordance with sections 6111.02 to 6111.027 of the Revised Code authorizing the filling of an isolated wetland.

(O) "Watershed" means an eight-digit hydrologic unit.

(P) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration that are sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. "Wetlands" includes swamps, marshes, bogs, and similar areas that are delineated in accordance with the 1987 United States army corps of engineers wetland delineation manual and any other procedures and requirements adopted by the United States army corps of engineers for delineating wetlands.

(Q) "Wetland mitigation bank" means a site where wetlands have been restored, created, enhanced, or, in exceptional circumstances, preserved expressly for the purpose of providing mitigation for impacts to wetlands and that has been approved in accordance with the process established in 33 C.F.R. 332.8 and 40 C.F.R. 230.98.

(R) "Eight-digit hydrologic unit" means a common surface drainage area corresponding to one from the list of thirty-seven adapted from the forty-four cataloging units as depicted on the hydrologic unit map of Ohio, United States geological survey, 1988, and as described in division (F) (2) of rule 3745-1-54 of the Administrative Code or as otherwise shown on map number 1 found in rule 3745-1-54 of the Administrative Code. "Eight-digit hydrologic unit" is limited to those parts of the cataloging units that geographically lie within the borders of this state.

(S) "In-lieu fee mitigation" means a payment made by an applicant to satisfy a wetland mitigation requirement established in sections 6111.02 to 6111.027 of the Revised Code.

**Sec. 6111.027.** (A) Mitigation for impacts to isolated wetlands under sections 6111.02 to 6111.027 shall be conducted in accordance with the following ratios:

(1) For category 1 and category 2 isolated wetlands, other than forested category 2 isolated wetlands, mitigation located at an approved wetland mitigation bank shall be conducted, or mitigation shall be paid for under an in-lieu fee mitigation program, at a rate of two times the size of the area of isolated wetland that is being impacted.

(2) For forested category 2 isolated wetlands, mitigation located at an approved wetland mitigation bank shall be conducted, or mitigation shall be paid for under an in-lieu fee mitigation program, at a rate of two and one-half times the size of the area of isolated wetland that is being



impacted.

(3) All other mitigation shall be subject to mitigation ratios established in division (F) of rule 3745-1-54 of the Administrative Code.

(B) Mitigation that involves the enhancement or preservation of isolated wetlands shall be calculated and performed in accordance with rule 3745-1-54 of the Administrative Code.

(C) An applicant for coverage under a general state isolated wetland permit or for an individual state isolated wetland permit under sections 6111.022 to 6111.024 of the Revised Code shall demonstrate that the mitigation site will be protected long term and that appropriate practicable management measures are, or will be, in place to restrict harmful activities that jeopardize the mitigation.

**Sec. 6111.03.** The director of environmental protection may do any of the following:

(A) Develop plans and programs for the prevention, control, and abatement of new or existing pollution of the waters of the state;

(B) Advise, consult, and cooperate with other agencies of the state, the federal government, other states, and interstate agencies and with affected groups, political subdivisions, and industries in furtherance of the purposes of this chapter. Before adopting, amending, or rescinding a standard or rule pursuant to division (G) of this section or section 6111.041 or 6111.042 of the Revised Code, the director shall do all of the following:

(1) Mail notice to each statewide organization that the director determines represents persons who would be affected by the proposed standard or rule, amendment thereto, or rescission thereof at least thirty-five days before any public hearing thereon;

(2) Mail a copy of each proposed standard or rule, amendment thereto, or rescission thereof to any person who requests a copy, within five days after receipt of the request therefor;

(3) Consult with appropriate state and local government agencies or their representatives, including statewide organizations of local government officials, industrial representatives, and other interested persons.

Although the director is expected to discharge these duties diligently, failure to mail any such notice or copy or to so consult with any person shall not invalidate any proceeding or action of the director.

(C) Administer grants from the federal government and from other sources, public or private, for carrying out any of its functions, all such moneys to be deposited in the state treasury and kept by the treasurer of state in a separate fund subject to the lawful orders of the director;

(D) Administer state grants for the construction of sewage and waste collection and treatment works;

(E) Encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to water pollution, and the causes, prevention, control, and abatement thereof, that are advisable and necessary for the discharge of the director's duties under this chapter;

(F) Collect and disseminate information relating to water pollution and prevention, control, and abatement thereof;

(G) Adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code governing the procedure for hearings, the filing of reports, the issuance of permits, the issuance of industrial water pollution control certificates, and all other matters relating to procedure;

(H) Issue, modify, or revoke orders to prevent, control, or abate water pollution by such means as the following:

(1) Prohibiting or abating discharges of sewage, industrial waste, or other wastes into the waters of the state;

(2) Requiring the construction of new disposal systems or any parts thereof, or the modification, extension, or alteration of existing disposal systems or any parts thereof;

(3) Prohibiting additional connections to or extensions of a sewerage system when the connections or extensions would result in an increase in the polluting properties of the effluent from the system when discharged into any waters of the state;

(4) Requiring compliance with any standard or rule adopted under sections 6111.01 to 6111.05 of the Revised Code or term or condition of a permit.

In the making of those orders, wherever compliance with a rule adopted under section 6111.042 of the Revised Code is not involved, consistent with the Federal Water Pollution Control Act, the director shall give consideration to, and base the determination on, evidence relating to the technical feasibility and economic reasonableness of complying with those orders and to evidence relating to conditions calculated to result from compliance with those orders, and their relation to benefits to the people of the state to be derived from such compliance in accomplishing the purposes of this chapter.

(I) Review plans, specifications, or other data relative to disposal systems or any part thereof in connection with the issuance of orders, permits, and industrial water pollution control certificates under this chapter;

(J)(1) Issue, revoke, modify, or deny sludge management permits and permits for the discharge of sewage, industrial waste, or other wastes into the waters of the state, and for the installation or modification of disposal systems or any parts thereof in compliance with all requirements of the Federal Water Pollution Control Act and mandatory regulations adopted thereunder, including regulations adopted under section 405 of the Federal Water Pollution Control Act, and set terms and conditions of permits, including schedules of compliance, where necessary. In issuing permits for sludge management, the director shall not allow the placement of sewage sludge on frozen ground in conflict with rules adopted under this chapter. Any person who discharges, transports, or handles storm water from an animal feeding facility, as defined in section 903.01 of the Revised Code, or pollutants from a concentrated animal feeding operation, as both terms are defined in that section, is not required to obtain a permit under division (J)(1) of this section for the installation or modification of a disposal system involving pollutants or storm water or any parts of such a system on and after the date on which the director of agriculture has finalized the program required under division (A)(1) of section 903.02 of the Revised Code. In addition, any person who discharges, transports, or handles storm water from an animal feeding facility, as defined in section 903.01 of the Revised Code, or pollutants from a concentrated animal feeding operation, as both terms are defined in that section, is not required to obtain a permit under division (J)(1) of this section for the discharge of storm water from an animal feeding facility or pollutants from a concentrated animal feeding operation on and after the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under section 903.08 of the Revised Code.

Any permit terms and conditions set by the director shall be designed to achieve and maintain full compliance with the national effluent limitations, national standards of performance for new sources, and national toxic and pretreatment effluent standards set under that act, and any other mandatory requirements of that act that are imposed by regulation of the administrator of the United States environmental protection agency. If an applicant for a sludge management permit also applies for a related permit for the discharge of sewage, industrial waste, or other wastes into the waters of the state, the director may combine the two permits and issue one permit to the applicant.

A sludge management permit is not required for an entity that treats or transports sewage sludge or for a sanitary landfill when all of the following apply:

- (a) The entity or sanitary landfill does not generate the sewage sludge.
- (b) Prior to receipt at the sanitary landfill, the entity has ensured that the sewage sludge meets the requirements established in rules adopted by the director under section 3734.02 of the Revised Code concerning disposal of municipal solid waste in a sanitary landfill.
- (c) Disposal of the sewage sludge occurs at a sanitary landfill that complies with rules adopted by the director under section 3734.02 of the Revised Code.

As used in division (J)(1) of this section, "sanitary landfill" means a sanitary landfill facility, as defined in rules adopted under section 3734.02 of the Revised Code, that is licensed as a solid waste facility under section 3734.05 of the Revised Code.

(2) An application for a permit or renewal thereof shall be denied if any of the following applies:

- (a) The secretary of the army determines in writing that anchorage or navigation would be substantially impaired thereby;
- (b) The director determines that the proposed discharge or source would conflict with an areawide waste treatment management plan adopted in accordance with section 208 of the Federal Water Pollution Control Act;
- (c) The administrator of the United States environmental protection agency objects in writing to the issuance or renewal of the permit in accordance with section 402 (d) of the Federal Water Pollution Control Act;
- (d) The application is for the discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste into the waters of the United States.

(3) To achieve and maintain applicable standards of quality for the waters of the state adopted pursuant to section 6111.041 of the Revised Code, the director shall impose, where necessary and appropriate, as conditions of each permit, water quality related effluent limitations in accordance with sections 301, 302, 306, 307, and 405 of the Federal Water Pollution Control Act and, to the extent consistent with that act, shall give consideration to, and base the determination on, evidence relating to the technical feasibility and economic reasonableness of removing the polluting properties from those wastes and to evidence relating to conditions calculated to result from that action and their relation to benefits to the people of the state and to accomplishment of the purposes of this chapter.

(4) Where a discharge having a thermal component from a source that is constructed or modified on or after October 18, 1972, meets national or state effluent limitations or more stringent permit conditions designed to achieve and maintain compliance with applicable standards of quality for the waters of the state, which limitations or conditions will ensure protection and propagation of a

balanced, indigenous population of shellfish, fish, and wildlife in or on the body of water into which the discharge is made, taking into account the interaction of the thermal component with sewage, industrial waste, or other wastes, the director shall not impose any more stringent limitation on the thermal component of the discharge, as a condition of a permit or renewal thereof for the discharge, during a ten-year period beginning on the date of completion of the construction or modification of the source, or during the period of depreciation or amortization of the source for the purpose of section 167 or 169 of the Internal Revenue Code of 1954, whichever period ends first.

(5) The director shall specify in permits for the discharge of sewage, industrial waste, and other wastes, the net volume, net weight, duration, frequency, and, where necessary, concentration of the sewage, industrial waste, and other wastes that may be discharged into the waters of the state. The director shall specify in those permits and in sludge management permits that the permit is conditioned upon payment of applicable fees as required by section 3745.11 of the Revised Code and upon the right of the director's authorized representatives to enter upon the premises of the person to whom the permit has been issued for the purpose of determining compliance with this chapter, rules adopted thereunder, or the terms and conditions of a permit, order, or other determination. The director shall issue or deny an application for a sludge management permit or a permit for a new discharge, for the installation or modification of a disposal system, or for the renewal of a permit, within one hundred eighty days of the date on which a complete application with all plans, specifications, construction schedules, and other pertinent information required by the director is received.

(6) The director may condition permits upon the installation of discharge or water quality monitoring equipment or devices and the filing of periodic reports on the amounts and contents of discharges and the quality of receiving waters that the director prescribes. The director shall condition each permit for a government-owned disposal system or any other "treatment works" as defined in the Federal Water Pollution Control Act upon the reporting of new introductions of industrial waste or other wastes and substantial changes in volume or character thereof being introduced into those systems or works from "industrial users" as defined in section 502 of that act, as necessary to comply with section 402(b)(8) of that act; upon the identification of the character and volume of pollutants subject to pretreatment standards being introduced into the system or works; and upon the existence of a program to ensure compliance with pretreatment standards by "industrial users" of the system or works. In requiring monitoring devices and reports, the director, to the extent consistent with the Federal Water Pollution Control Act, shall give consideration to technical feasibility and economic reasonableness and shall allow reasonable time for compliance.

(7) A permit may be issued for a period not to exceed five years and may be renewed upon application for renewal. In renewing a permit, the director shall consider the compliance history of the permit holder and may deny the renewal if the director determines that the permit holder has not complied with the terms and conditions of the existing permit. A permit may be modified, suspended, or revoked for cause, including, but not limited to, violation of any condition of the permit, obtaining a permit by misrepresentation or failure to disclose fully all relevant facts of the permitted discharge or of the sludge use, storage, treatment, or disposal practice, or changes in any condition that requires either a temporary or permanent reduction or elimination of the permitted activity. No application shall be denied or permit revoked or modified without a written order stating the findings upon which

the denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or permit holder by certified mail.

(K) Institute or cause to be instituted in any court of competent jurisdiction proceedings to compel compliance with this chapter or with the orders of the director issued under this chapter, or to ensure compliance with sections 204(b), 307, 308, and 405 of the Federal Water Pollution Control Act;

(L) Certify to the government of the United States or any agency thereof that an industrial water pollution control facility is in conformity with the state program or requirements for the control of water pollution whenever the certification may be required for a taxpayer under the Internal Revenue Code of the United States, as amended;

(M) Issue, modify, and revoke orders requiring any "industrial user" of any publicly owned "treatment works" as defined in sections 212(2) and 502(18) of the Federal Water Pollution Control Act to comply with pretreatment standards; establish and maintain records; make reports; install, use, and maintain monitoring equipment or methods, including, where appropriate, biological monitoring methods; sample discharges in accordance with methods, at locations, at intervals, and in a manner that the director determines; and provide other information that is necessary to ascertain whether or not there is compliance with toxic and pretreatment effluent standards. In issuing, modifying, and revoking those orders, the director, to the extent consistent with the Federal Water Pollution Control Act, shall give consideration to technical feasibility and economic reasonableness and shall allow reasonable time for compliance.

(N) Exercise all incidental powers necessary to carry out the purposes of this chapter;

(O) Pursuant to section 401 of the Federal Water Pollution Control Act, do any of the following:

(1) Issue or deny a section 401 water quality certification to, or, pursuant to an appealable action, waive a section 401 water quality certification for, any applicant for a federal license or permit to conduct any activity that may result in any discharge into the waters of the state. Any waiver shall contain a justification for the action.

(2) At the request or concurrence of the certification holder, transfer or modify a section 401 water quality certification;

(3) Revoke a section 401 water quality certification when the director determines that the certification approval was based on false or misleading information.

(P) Administer and enforce the publicly owned treatment works pretreatment program in accordance with the Federal Water Pollution Control Act. In the administration of that program, the director may do any of the following:

(1) Apply and enforce pretreatment standards;

(2) Approve and deny requests for approval of publicly owned treatment works pretreatment programs, oversee those programs, and implement, in whole or in part, those programs under any of the following conditions:

(a) The director has denied a request for approval of the publicly owned treatment works pretreatment program;

(b) The director has revoked the publicly owned treatment works pretreatment program;

(c) There is no pretreatment program currently being implemented by the publicly owned

treatment works;

(d) The publicly owned treatment works has requested the director to implement, in whole or in part, the pretreatment program.

(3) Require that a publicly owned treatment works pretreatment program be incorporated in a permit issued to a publicly owned treatment works as required by the Federal Water Pollution Control Act, require compliance by publicly owned treatment works with those programs, and require compliance by industrial users with pretreatment standards;

(4) Approve and deny requests for authority to modify categorical pretreatment standards to reflect removal of pollutants achieved by publicly owned treatment works;

(5) Deny and recommend approval of requests for fundamentally different factors variances submitted by industrial users;

(6) Make determinations on categorization of industrial users;

(7) Adopt, amend, or rescind rules and issue, modify, or revoke orders necessary for the administration and enforcement of the publicly owned treatment works pretreatment program.

Any approval of a publicly owned treatment works pretreatment program may contain any terms and conditions, including schedules of compliance, that are necessary to achieve compliance with this chapter.

(Q) Except as otherwise provided in this division, adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures, methods, and equipment and other requirements for equipment to prevent and contain discharges of oil and hazardous substances into the waters of the state. The rules shall be consistent with and equivalent in scope, content, and coverage to section 311(j)(1)(c) of the Federal Water Pollution Control Act and regulations adopted under it. The director shall not adopt rules under this division relating to discharges of oil from oil production facilities and oil drilling and workover facilities as those terms are defined in that act and regulations adopted under it.

(R)(1) Administer and enforce a program for the regulation of sludge management in this state. In administering the program, the director, in addition to exercising the authority provided in any other applicable sections of this chapter, may do any of the following:

(a) Develop plans and programs for the disposal and utilization of sludge and sludge materials;

(b) Encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to the disposal and use of sludge and sludge materials and the impact of sludge and sludge materials on land located in the state and on the air and waters of the state;

(c) Collect and disseminate information relating to the disposal and use of sludge and sludge materials and the impact of sludge and sludge materials on land located in the state and on the air and waters of the state;

(d) Issue, modify, or revoke orders to prevent, control, or abate the use and disposal of sludge and sludge materials or the effects of the use of sludge and sludge materials on land located in the state and on the air and waters of the state;

(e) Adopt and enforce, modify, or rescind rules necessary for the implementation of division (R) of this section. The rules reasonably shall protect public health and the environment, encourage the beneficial reuse of sludge and sludge materials, and minimize the creation of nuisance odors.

The director may specify in sludge management permits the net volume, net weight, quality, and pollutant concentration of the sludge or sludge materials that may be used, stored, treated, or disposed of, and the manner and frequency of the use, storage, treatment, or disposal, to protect public health and the environment from adverse effects relating to those activities. The director shall impose other terms and conditions to protect public health and the environment, minimize the creation of nuisance odors, and achieve compliance with this chapter and rules adopted under it and, in doing so, shall consider whether the terms and conditions are consistent with the goal of encouraging the beneficial reuse of sludge and sludge materials.

The director may condition permits on the implementation of treatment, storage, disposal, distribution, or application management methods and the filing of periodic reports on the amounts, composition, and quality of sludge and sludge materials that are disposed of, used, treated, or stored.

An approval of a treatment works sludge disposal program may contain any terms and conditions, including schedules of compliance, necessary to achieve compliance with this chapter and rules adopted under it.

(2) As a part of the program established under division (R)(1) of this section, the director has exclusive authority to regulate sewage sludge management in this state. For purposes of division (R) (2) of this section, that program shall be consistent with section 405 of the Federal Water Pollution Control Act and regulations adopted under it and with this section, except that the director may adopt rules under division (R) of this section that establish requirements that are more stringent than section 405 of the Federal Water Pollution Control Act and regulations adopted under it with regard to monitoring sewage sludge and sewage sludge materials and establishing acceptable sewage sludge management practices and pollutant levels in sewage sludge and sewage sludge materials.

This chapter authorizes the state to participate in any national sludge management program and the national pollutant discharge elimination system, to administer and enforce the publicly owned treatment works pretreatment program, and to issue permits for the discharge of dredged or fill materials, in accordance with the Federal Water Pollution Control Act. This chapter shall be administered, consistent with the laws of this state and federal law, in the same manner that the Federal Water Pollution Control Act is required to be administered.

(S) Develop technical guidance and offer technical assistance, upon request, for the purpose of minimizing wind or water erosion of soil, and assist in compliance with permits for storm water management issued under this chapter and rules adopted under it.

(T) Study, examine, and calculate nutrient loading from point and nonpoint sources in order to determine comparative contributions by those sources and to utilize the information derived from those calculations to determine the most environmentally beneficial and cost-effective mechanisms to reduce nutrient loading to watersheds in the Lake Erie basin and the Ohio river basin. In order to evaluate nutrient loading contributions, the director or the director's designee shall conduct a study of the nutrient mass balance for both point and nonpoint sources in watersheds in the Lake Erie basin and the Ohio river basin using available data, including both of the following:

- (1) Data on water quality and stream flow;
- (2) Data on point source discharges into those watersheds.

The director or the director's designee shall report and update the results of the study to coincide with the release of the Ohio integrated water quality monitoring and assessment report

prepared by the director.

(U) Establish the total maximum daily load (TMDL) for waters of the state where a TMDL is required under the Federal Water Pollution Control Act.

This section does not apply to residual farm products and manure disposal systems and related management and conservation practices subject to rules adopted pursuant to division (E)(1) of section 939.02 of the Revised Code. For purposes of this exclusion, "residual farm products" and "manure" have the same meanings as in section 939.01 of the Revised Code. However, until the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under section 903.08 of the Revised Code, this exclusion does not apply to animal waste treatment works having a controlled direct discharge to the waters of the state or any concentrated animal feeding operation, as defined in 40 C.F.R. 122.23(b)(2). On and after the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under section 903.08 of the Revised Code, this section does not apply to storm water from an animal feeding facility, as defined in section 903.01 of the Revised Code, or to pollutants discharged from a concentrated animal feeding operation, as both terms are defined in that section. Neither of these exclusions applies to the discharge of animal waste into a publicly owned treatment works.

Not later than December 1, 2016, a publicly owned treatment works with a design flow of one million gallons per day or more, or designated as a major discharger by the director, shall be required to begin monthly monitoring of total and dissolved reactive phosphorus pursuant to a new NPDES permit, an NPDES permit renewal, or a director-initiated modification. The director shall include in each applicable new NPDES permit, NPDES permit renewal, or director-initiated modification a requirement that such monitoring be conducted. A director-initiated modification for that purpose shall be considered and processed as a minor modification pursuant to Ohio Administrative Code 3745-33-04. In addition, not later than December 1, 2017, a publicly owned treatment works with a design flow of one million gallons per day or more that, on July 3, 2015, is not subject to a phosphorus limit shall complete and submit to the director a study that evaluates the technical and financial capability of the existing treatment facility to reduce the final effluent discharge of phosphorus to one milligram per liter using possible source reduction measures, operational procedures, and unit process configurations.

**Sec. 6111.04.** (A) Both of the following apply except as otherwise provided in division (A) or (F) of this section:

(1) No person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state.

(2) Such an action prohibited under division (A)(1) of this section is hereby declared to be a public nuisance.

Divisions (A)(1) and (2) of this section do not apply if the person causing pollution or placing or causing to be placed wastes in a location in which they cause pollution of any waters of the state holds a valid, unexpired permit, or renewal of a permit, governing the causing or placement as provided in sections 6111.01 to 6111.08 of the Revised Code or if the person's application for renewal of such a permit is pending.



(B) If the director of environmental protection administers a sludge management program pursuant to division (R) of section 6111.03 of the Revised Code, both of the following apply except as otherwise provided in division (B) or (F) of this section:

(1) No person, in the course of sludge management, shall place on land located in the state or release into the air of the state any sludge or sludge materials.

(2) An action prohibited under division (B)(1) of this section is hereby declared to be a public nuisance.

Divisions (B)(1) and (2) of this section do not apply if the person placing or releasing the sludge or sludge materials holds a valid, unexpired permit, or renewal of a permit, governing the placement or release as provided in sections 6111.01 to 6111.08 of the Revised Code or if the person's application for renewal of such a permit is pending.

(C) No person to whom a permit has been issued shall place or discharge, or cause to be placed or discharged, in any waters of the state any sewage, sludge, sludge materials, industrial waste, or other wastes in excess of the permissive discharges specified under an existing permit without first receiving a permit from the director to do so.

(D) No person to whom a sludge management permit has been issued shall place on the land or release into the air of the state any sludge or sludge materials in excess of the permissive amounts specified under the existing sludge management permit without first receiving a modification of the existing sludge management permit or a new sludge management permit to do so from the director.

(E) The director may require the submission of plans, specifications, and other information that the director considers relevant in connection with the issuance of permits.

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

(1) Waters used in washing sand, gravel, other aggregates, or mineral products when the washing and the ultimate disposal of the water used in the washing, including any sewage, industrial waste, or other wastes contained in the waters, are entirely confined to the land under the control of the person engaged in the recovery and processing of the sand, gravel, other aggregates, or mineral products and do not result in the pollution of waters of the state;

(2) Water, gas, or other material injected into a well to facilitate, or that is incidental to, the production of oil, gas, artificial brine, or water derived in association with oil or gas production and disposed of in a well, in compliance with a permit issued under Chapter 1509. of the Revised Code, or sewage, industrial waste, or other wastes injected into a well in compliance with an injection well operating permit. Division (F)(2) of this section does not authorize, without a permit, any discharge that is prohibited by, or for which a permit is required by, regulation of the United States environmental protection agency.

(3) Application of any materials to land for agricultural purposes or runoff of the materials from that application or pollution by residual farm products, manure, or soil sediment, including attached substances, resulting from farming, silvicultural, or earthmoving activities regulated by Chapter 307. or 939. of the Revised Code. Division (F)(3) of this section does not authorize, without a permit, any discharge that is prohibited by, or for which a permit is required by, the Federal Water Pollution Control Act or regulations adopted under it. As used in division (F)(3) of this section, "residual farm products" and "manure" have the same meanings as in section 939.01 of the Revised Code.

(4) The excrement of domestic and farm animals defecated on land or runoff therefrom into any waters of the state. Division (F)(4) of this section does not authorize, without a permit, any discharge that is prohibited by, or for which a permit is required by, the Federal Water Pollution Control Act or regulations adopted under it.

(5) On and after the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under section 903.08 of the Revised Code, any discharge that is within the scope of the approved NPDES program submitted by the director of agriculture;

(6) The discharge of sewage, industrial waste, or other wastes into a sewerage system tributary to a treatment works. Division (F)(6) of this section does not authorize any discharge into a publicly owned treatment works in violation of a pretreatment program applicable to the publicly owned treatment works or any discharge to a privately owned treatment works in violation of any permit conditions established in accordance with 40 C.F.R. 122.44(m).

(7) A household sewage treatment system or a small flow on-site sewage treatment system, as applicable, as defined in section 3718.01 of the Revised Code that is installed in compliance with Chapter 3718. of the Revised Code and rules adopted under it. Division (F)(7) of this section does not authorize, without a permit, any discharge that is prohibited by, or for which a permit is required by, regulation of the United States environmental protection agency.

(8) Exceptional quality sludge generated outside of this state and contained in bags or other containers not greater than one hundred pounds in capacity. As used in division (F)(8) of this section, "exceptional quality sludge" has the same meaning as in division (Y) of section 3745.11 of the Revised Code.

(G) The holder of a permit issued under section 402 (a) of the Federal Water Pollution Control Act need not obtain a permit for a discharge authorized by the permit until its expiration date. Except as otherwise provided in this division, the director of environmental protection shall administer and enforce those permits within this state and may modify their terms and conditions in accordance with division (J) of section 6111.03 of the Revised Code. On and after the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under section 903.08 of the Revised Code, the director of agriculture shall administer and enforce those permits within this state that are issued for any discharge that is within the scope of the approved NPDES program submitted by the director of agriculture.

**Sec. 6111.044.** Upon receipt of an application for an injection well drilling permit, an injection well operating permit, a renewal of an injection well operating permit, or a modification of an injection well drilling permit, operating permit, or renewal of an operating permit, the director of environmental protection shall determine whether the application is complete and demonstrates that the activities for which the permit, renewal permit, or modification is requested will comply with the Federal Water Pollution Control Act and regulations adopted under it; the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended, and regulations adopted under it; and this chapter and the rules adopted under it. If the application demonstrates that the proposed activities will not comply or will pose an unreasonable risk of inducing seismic activity, inducing geologic fracturing, or contamination of an underground source of drinking water, the director shall deny the application. If the application does not make the required demonstrations, the director shall return it

to the applicant with an indication of those matters about which a required demonstration was not made. If the director determines that the application makes the required demonstrations, the director shall transmit copies of the application and all of the accompanying maps, data, samples, and information to the chief of the division of oil and gas resources management, the chief of the division of geological survey, the chief of the division of water resources, and, if the well is or is to be located in a coal bearing township designated under section 1561.06 of the Revised Code, the chief of the division of mineral resources management in the department of natural resources.

The chief of the division of geological survey shall comment upon the application if the chief determines that the proposed well or injection will present an unreasonable risk of loss or damage to valuable mineral resources. If the chief submits comments on the application, those comments shall be accompanied by an evaluation of the geological factors upon which the comments are based, including fractures, faults, earthquake potential, and the porosity and permeability of the injection zone and confining zone, and by the documentation supporting the evaluation. The director shall take into consideration the chief's comments, and the accompanying evaluation of geologic factors and supporting documentation, when considering the application. The director shall provide written notice to the chief of the director's decision on the application and, if the chief's comments are not included in the permit, renewal permit, or modification, of the director's rationale for not including them.

The chief of the division of oil and gas resources management shall comment upon the application if the chief determines that the proposed well or injection will present an unreasonable risk that waste or contamination of recoverable oil or gas in the earth will occur. If the chief submits comments on the application, those comments shall be accompanied by an evaluation of the oil or gas reserves that, in the best professional judgment of the chief, are recoverable and will be adversely affected by the proposed well or injection, and by the documentation supporting the evaluation. The director shall take into consideration the chief's comments, and the accompanying evaluation and supporting documentation, when considering the application. The director shall provide written notice to the chief of the director's decision on the application and, if the chief's comments are not included in the permit, renewal permit, or modification, of the director's rationale for not including them.

The chief of the division of water resources shall assist the director in determining whether all underground sources of drinking water in the area of review of the proposed well or injection have been identified and correctly delineated in the application. If the application fails to identify or correctly delineate an underground source of drinking water, the chief shall provide written notice of that fact to the director.

The chief of the division of mineral resources management shall review the application as follows:

If the application concerns the drilling or conversion of a well or the injection into a well that is not or is not to be located within five thousand feet of the excavation and workings of a mine, the chief of the division of mineral resources management shall note upon the application that it has been examined by the division of mineral resources management, retain a copy of the application and map, and immediately return a copy of the application to the director.

If the application concerns the drilling or conversion of a well or the injection into a well that

is or is to be located within five thousand feet, but more than five hundred feet from the surface excavations and workings of a mine, the chief of the division of mineral resources management immediately shall notify the owner or lessee of the mine that the application has been filed and send to the owner or lessee a copy of the map accompanying the application setting forth the location of the well. The chief of the division of mineral resources management shall note on the application that the notice has been sent to the owner or lessee of the mine, retain a copy of the application and map, and immediately return a copy of the application to the director with the chief's notation on it.

If the application concerns the drilling or conversion of a well or the injection into a well that is or is to be located within five thousand feet of the underground excavations and workings of a mine or within five hundred feet of the surface excavations and workings of a mine, the chief of the division of mineral resources management immediately shall notify the owner or lessee of the mine that the application has been filed and send to the owner or lessee a copy of the map accompanying the application setting forth the location of the well. If the owner or lessee objects to the application, the owner or lessee shall notify the chief of the division of mineral resources management of the objection, giving the reasons, within six days after the receipt of the notice. If the chief of the division of mineral resources management receives no objections from the owner or lessee of the mine within ten days after the receipt of the notice by the owner or lessee, or if in the opinion of the chief of the division of mineral resources management the objections offered by the owner or lessee are not sufficiently well founded, the chief shall retain a copy of the application and map and return a copy of the application to the director with any applicable notes concerning it.

If the chief of the division of mineral resources management receives an objection from the owner or lessee of the mine as to the application, within ten days after receipt of the notice by the owner or lessee, and if in the opinion of the chief the objection is well founded, the chief shall disapprove the application and immediately return it to the director together with the chief's reasons for the disapproval. The director promptly shall notify the applicant for the permit, renewal permit, or modification of the disapproval. The applicant may appeal the disapproval of the application by the chief of the division of mineral resources management to the reclamation commission created under section 1513.05 of the Revised Code, and the commission shall hear the appeal in accordance with section 1513.13 of the Revised Code. The appeal shall be filed within thirty days from the date the applicant receives notice of the disapproval. No comments concerning or disapproval of an application shall be delayed by the chief of the division of mineral resources management for more than fifteen days from the date of sending of notice to the mine owner or lessee as required by this section.

The director shall not approve an application for an injection well drilling permit, an injection well operating permit, a renewal of an injection well operating permit, or a modification of an injection well drilling permit, operating permit, or renewal of an operating permit for a well that is or is to be located within three hundred feet of any opening of any mine used as a means of ingress, egress, or ventilation for persons employed in the mine, nor within one hundred feet of any building or flammable structure connected with the mine and actually used as a part of the operating equipment of the mine, unless the chief of the division of mineral resources management determines that life or property will not be endangered by drilling and operating the well in that location.

Upon review by the chief of the division of oil and gas resources management, the chief of

the division of geological survey, and the chief of the division of water resources, and if the chief of the division of mineral resources management has not disapproved the application, the director shall issue a permit, renewal permit, or modification with any terms and conditions that may be necessary to comply with the Federal Water Pollution Control Act and regulations adopted under it; the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f) as amended, and regulations adopted under it; and this chapter and the rules adopted under it. The director shall not issue a permit, renewal permit, or modification to an applicant if the applicant or persons associated with the applicant have engaged in or are engaging in a substantial violation of this chapter that is endangering or may endanger human health or the environment or if, in the case of an applicant for an injection well drilling permit, the applicant, at the time of applying for the permit, did not hold an injection well operating permit or renewal of an injection well drilling permit and failed to demonstrate sufficient expertise and competency to operate the well in compliance with the applicable provisions of this chapter.

If the director receives a disapproval from the chief of the division of mineral resources management regarding an application for an injection well drilling or operating permit, renewal permit, or modification, if required, the director shall issue an order denying the application.

The director need not issue a proposed action under section 3745.07 of the Revised Code or hold an adjudication hearing under that section and Chapter 119. of the Revised Code before issuing or denying a permit, renewal permit, or modification of a permit or renewal permit. Before issuing or renewing a permit to drill or operate a class I injection well or a modification of it, the director shall propose the permit, renewal permit, or modification in draft form and shall hold a public hearing to receive public comment on the draft permit, renewal permit, or modification. At least fifteen days before the public hearing on a draft permit, renewal permit, or modification, the director shall publish notice of the date, time, and location of the public hearing in at least one newspaper of general circulation serving the area where the well is or is to be located. The proposing of such a draft permit, renewal permit, or modification does not constitute the issuance of a proposed action under section 3745.07 of the Revised Code, and the holding of the public hearing on such a draft permit, renewal permit, or modification does not constitute the holding of an adjudication hearing under that section and Chapter 119. of the Revised Code. Appeals of orders other than orders of the chief of the division of mineral resources management shall be taken under sections 3745.04 to 3745.08 of the Revised Code.

The director may order that an injection well drilling permit or an injection well operating permit or renewal permit be suspended and that activities under it cease after determining that those activities are occurring in violation of law, rule, order, or term or condition of the permit. Upon service of a copy of the order upon the permit holder or the permit holder's authorized agent or assignee, the permit and activities under it shall be suspended immediately without prior hearing and shall remain suspended until the violation is corrected and the order of suspension is lifted. If a violation is the second within a one-year period, the director, after a hearing, may revoke the permit.

The director may order that an injection well drilling permit or an injection well operating permit or renewal permit be suspended and that activities under it cease if the director has reasonable cause to believe that the permit would not have been issued if the information available at the time of suspension had been available at the time a determination was made by one of the agencies acting

under authority of this section. Upon service of a copy of the order upon the permit holder or the permit holder's authorized agent or assignee, the permit and activities under it shall be suspended immediately without prior hearing, but a permit may not be suspended for that reason without prior hearing unless immediate suspension is necessary to prevent waste or contamination of oil or gas, comply with the Federal Water Pollution Control Act and regulations adopted under it; the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended, and regulations adopted under it; and this chapter and the rules adopted under it, or prevent damage to valuable mineral resources, prevent contamination of an underground source of drinking water, or prevent danger to human life or health. If after a hearing the director determines that the permit would not have been issued if the information available at the time of the hearing had been available at the time a determination was made by one of the agencies acting under authority of this section, the director shall revoke the permit.

When a permit has been revoked, the permit holder or other person responsible for it immediately shall plug the well in the manner required by the director.

The director may issue orders to prevent or require cessation of violations of this section, section 6111.043, 6111.045, 6111.046, or 6111.047 of the Revised Code, rules adopted under any of those sections, and terms or conditions of permits issued under any of them. The orders may require the elimination of conditions caused by the violation.

**Sec. 6111.051.**

**Sec. 6111.12.** (A) The director of environmental protection shall establish an antidegradation policy applicable to surface waters of the state pursuant to applicable federal laws and regulations. The purpose of the policy shall be to maintain levels of water quality that are currently better than prescribed by applicable standards except in situations when a need to allow a lower level of water quality is demonstrated based on technical, social, and economic criteria. Not later than March 31, 1994, the director shall revise the existing antidegradation policy established in rules adopted under section 6111.041 of the Revised Code and revise any necessary implementation procedures to conform them to the following principles and any mandatory regulations adopted under the Federal Water Pollution Control Act:

(1) The use of existing effluent quality as a method of calculating antidegradation-based limits shall be imposed only to the extent that the use is explicitly required by federal law or regulation as the only means available to implement antidegradation.

(2) No degradation shall be allowed in waters for any pollutant that currently does not meet applicable standards. For all remaining waters, there shall be provisions requiring federal antidegradation requirements to be met and provisions ensuring that waters of exceptional recreational or ecological value are maintained as high quality resources for future generations. There shall be at least two categories of surface waters identified in the state for that purpose and for the purpose of establishing priorities for the administrative and technical resources expended on antidegradation reviews.

(3) Whenever current ambient water quality is determined to be of a higher quality than prescribed in the standards, on a pollutant-by-pollutant basis, and the water body lacks exceptional recreational or ecological value, the director may allocate to existing sources eighty per cent of the pollutant assimilative capacity as determined by appropriate total maximum daily load procedures

without further antidegradation review. The permittee for any existing source may receive an effluent limitation based on not more than one hundred per cent of the mass or concentration levels necessary to meet applicable water quality in the receiving water body as determined by appropriate total maximum daily load procedures, provided that there has been a satisfactory demonstration of the need to allow lower water quality based on technical, social, and economic criteria and the action is preceded by a public notice. Sources other than existing sources that result in ten per cent or greater change, that is, degradation, of ambient chemical water quality shall require a demonstration of technical, social, and economic need and shall be the subject of a public notice.

(4) Degradation of waters identified as possessing exceptional recreational or ecological value shall be determined through an analysis of the expected perceptible change in ambient concentrations of pollutant or alternatively through an analysis of the expected change in the biological condition of the water body. Either determination shall constitute a lowering of water quality and shall require an antidegradation review. The director shall establish, by rules adopted in accordance with Chapter 119. of the Revised Code, a definition of perceptible change that shall be applicable to those waters identified in rule as possessing exceptional recreational or ecological value. Antidegradation reviews shall be required for any activity resulting in a perceptible change in ambient chemical or biological quality on waters identified as possessing exceptional recreational or ecological value. Allowances shall be made for existing sources to retain their current permit limits with no requirement to demonstrate technical, social, and economic need.

(5) The director shall establish reasonable protocols for completing technical, social, and economic need demonstrations based on existing federal guidance and on input from the department of development, the regulated community, and the general public.

(B) Effluent limitations established by the director for any existing source in any permit issued under division (J) of section 6111.03 of the Revised Code prior to July 1, 1993, shall continue in effect unless the permit is modified by the director. A discharger seeking modification of antidegradation-based limitations that were based on existing quality of discharge when the permit was issued shall apply to the director for modification of the permit, consistent with rules adopted under division (A) of this section, not later than one hundred eighty days after July 1, 1993. If the permittee has filed such a timely application for modification, the director shall not pursue administrative or judicial enforcement actions for violations of antidegradation-based limitations based on the existing quality of effluent that occur after July 1, 1993.

(C) A historically channelized watercourse provides technical, social, and economic benefits. Therefore, with regard to a historically channelized watercourse, the director shall not require further antidegradation review during the review of an application for and the issuance or denial of a permit under this chapter or a water quality certification under section 401 of the Federal Water Pollution Control Act if the director finds, after public notice and opportunity for comment, and a public hearing if significant public interest is shown, that all of the following apply:

(1) Work is necessary to restore or maintain a drainage or other improvement provided by a historically channelized watercourse.

(2) The work is performed pursuant to section 940.06 of the Revised Code or a petition filed under section 6131.04 or 6133.02 of the Revised Code.

(3) Without the work, flooding threatens public health and safety or may result in significant

damage to public or private property.

(4) The work will not result in the loss of designated or existing beneficial uses as those uses are described in rules adopted under section 6111.041 of the Revised Code.

(5) The work will not harm or interfere with the protection of federal or state designated endangered or threatened species.

(6) The historically channelized watercourse is not designated as coldwater habitat, exceptional warmwater habitat, or a state resource water in rules adopted under section 6111.041 of the Revised Code.

(7) If information is available concerning resident fishery or macroinvertebrate communities, or both, in the historically channelized watercourse, the historically channelized watercourse does not support a particularly diverse or unique warmwater habitat as that term is defined in rules adopted under section 6111.041 of the Revised Code.

(8) Plans for the work have been submitted to the applicable soil and water conservation district organized under Chapter 940. of the Revised Code.

(9) A storm water runoff plan has been developed for the watershed prior to or during planning and design of the work and the work is consistent with the plan.

(D) As used in this section:

(1) "Existing sources" means any treatment works that were built and operational under the terms of an NPDES permit prior to July 1, 1993, but does not include expansions or upgrades of existing treatment works authorized in rules adopted under section 6111.03 of the Revised Code after that date.

(2) "Appropriate total maximum daily load procedures" means the procedures, policies, and guidelines used by the director prior to July 1, 1993, or subsequent revisions to those procedures established in rules adopted in accordance with Chapter 119. of the Revised Code.

(3) "Antidegradation review" means the consideration by the director of the technical, social, and economic need demonstration completed by any person requesting to lower water quality as provided in this section, including the public notice of the application and, at the discretion of the director, a public hearing on it.

**Sec. 6111.30.** (A) Applications for a section 401 water quality certification required under division (O) of section 6111.03 of the Revised Code shall be submitted on forms provided by the director of environmental protection and shall include all information required on those forms as well as all of the following:

(1) A copy of a letter from the United States army corps of engineers documenting its jurisdiction over the wetlands, streams, or other waters of the state that are the subject of the section 401 water quality certification application;

(2) If the project involves impacts to a wetland, a wetland characterization analysis consistent with the Ohio rapid assessment method;

(3) If the project involves a stream for which a specific aquatic life use designation has not been made, data sufficient to determine the existing aquatic life use;

(4) A specific and detailed mitigation proposal, including the location and proposed real estate instrument or other available mechanism for protecting the property long term;

(5) Applicable fees;



(6) Site photographs;

(7) Adequate documentation confirming that the applicant has requested comments from the department of natural resources and the United States fish and wildlife service regarding threatened and endangered species, including the presence or absence of critical habitat;

(8) Descriptions, schematics, and appropriate economic information concerning the applicant's preferred alternative, nondegradation alternatives, and minimum degradation alternatives for the design and operation of the project;

(9) The applicant's investigation report of the waters of the United States in support of a section 404 permit application concerning the project;

(10) A copy of the United States army corps of engineers' public notice regarding the section 404 permit application concerning the project.

(B) Not later than fifteen business days after the receipt of an application for a section 401 water quality certification, the director shall review the application to determine if it is complete and shall notify the applicant in writing as to whether the application is complete. If the director fails to notify the applicant within fifteen business days regarding the completeness of the application, the application is considered complete. If the director determines that the application is not complete, the director shall include with the written notification an itemized list of the information or materials that are necessary to complete the application. If the applicant fails to provide the information or materials within sixty days after the director's receipt of the application, the director may return the incomplete application to the applicant and take no further action on the application. If the application is returned to the applicant because it is incomplete, the director shall return the review fee levied under division (A)(1), (2), or (3) of section 3745.114 of the Revised Code to the applicant, but shall retain the application fee levied under that section.

(C) Not later than twenty-one days after a determination that an application is complete under division (B) of this section, the applicant shall publish public notice of the director's receipt of the complete application in a newspaper of general circulation in the county in which the project that is the subject of the application is located. The public notice shall be in a form acceptable to the director. The applicant shall promptly provide the director with proof of publication. The applicant may choose, subject to review by and approval of the director, to include in the public notice an advertisement for an antidegradation public hearing on the application pursuant to section 6111.12 of the Revised Code. There shall be a public comment period of thirty days following the publication of the public notice.

(D) If the director determines that there is significant public interest in a public hearing as evidenced by the public comments received concerning the application and by other requests for a public hearing on the application, the director or the director's representative shall conduct a public hearing concerning the application. Notice of the public hearing shall be published by the applicant, subject to review and approval by the director, at least thirty days prior to the date of the hearing in a newspaper of general circulation in the county in which the project that is the subject of the application is to take place. If a public hearing is requested concerning an application, the director shall accept comments concerning the application until five business days after the public hearing. A public hearing conducted under this division shall take place not later than one hundred days after the application is determined to be complete.

(E) The director shall forward all public comments concerning an application submitted under this section that are received through the public involvement process required by rules adopted under this chapter to the applicant not later than five business days after receipt of the comments by the director.

(F) The applicant shall respond in writing to written comments or to deficiencies identified by the director during the course of reviewing the application not later than fifteen days after receiving or being notified of them.

(G) The director shall issue or deny a section 401 water quality certification not later than one hundred eighty days after the complete application for the certification is received. The director shall provide an applicant for a section 401 water quality certification with an opportunity to review the certification prior to its issuance. However, when a certified water quality professional conducts a stream or wetland assessment to support an application and the application does not require or necessitate a public hearing, the director shall issue or deny a section 401 water quality certification not later than ninety days after the complete application for the certification is received.

(H) The director shall maintain an accessible database that includes environmentally beneficial water restoration and protection projects that may serve as potential mitigation projects for projects in the state for which a section 401 water quality certification is required. A project's inclusion in the database does not constitute an approval of the project.

(I) Mitigation required by a section 401 water quality certification may be accomplished by any of the following:

- (1) Purchasing credits at a mitigation bank approved in accordance with 33 C.F.R. 332.8;
- (2) Participating in an in-lieu fee mitigation program approved in accordance with 33 C.F.R. 332.8;
- (3) Constructing individual mitigation projects.

Notwithstanding the mitigation hierarchy specified in section 3745-1-54 of the Administrative Code, mitigation projects shall be approved in accordance with the hierarchy specified in 33 C.F.R. 332.3 unless the director determines that the size or quality of the impacted resource necessitates reasonably identifiable, available, and practicable mitigation conducted by the applicant. The director shall adopt rules in accordance with Chapter 119. of the Revised Code consistent with the mitigation hierarchy specified in 33 C.F.R. 332.3.

(J) The director shall establish a program and adopt rules in accordance with Chapter 119. of the Revised Code for the purpose of certifying water quality professionals to assess streams to determine existing aquatic life use and to categorize wetlands in support of applications for section 401 water quality certification under divisions (A)(2) and (3) of this section and isolated wetland permits under sections 6111.022 to 6111.024 of the Revised Code. The director shall establish a multi-sector work group to assist in the development of rules adopted under this division. The director shall use information submitted by certified water quality professionals in the review of those applications.

Rules adopted under this division shall do all of the following:

- (1) Provide for the certification of water quality professionals to conduct activities in support of applications for section 401 water quality certification and isolated wetland permits, including work necessary to determine existing aquatic life use of streams and categorize wetlands. Rules

adopted under division (J)(1) of this section shall do at least all of the following:

(a) Authorize the director to require an applicant for water quality professional certification to submit information considered necessary by the director to assess a water quality professional's experience in conducting stream assessments and wetlands categorizations;

(b) Authorize the director to establish experience requirements and to use tests to determine the competency of applicants for water quality professional certification;

(c) Authorize the director to approve applicants for water quality professional certification who comply with the requirements established in rules and deny applicants that do not comply with those requirements;

(d) Require the director to revoke the certification of a water quality professional if the director finds that the professional falsified any information on the professional's application for certification regarding the professional's credentials;

(e) Require periodic renewal of a water quality professional's certification and establish continuing education requirements for purposes of that renewal.

(2) Establish an annual fee to be paid by water quality professionals certified under rules adopted under division (J)(1) of this section in an amount calculated to defray the costs incurred by the environmental protection agency for reviewing applications for water quality professional certification and for issuing those certifications;

(3) Authorize the director to suspend or revoke the certification of a water quality professional if the director finds that the professional's performance has resulted in submission of documentation that is inconsistent with standards established in rules adopted under division (J)(7) of this section;

(4) Authorize the director to review documentation submitted by a certified water quality professional to ensure compliance with requirements established in rules adopted under division (J)(7) of this section;

(5) Require a certified water quality professional to submit any documentation developed in support of an application for a section 401 water quality certification or an isolated wetland permit upon the request of the director;

(6) Authorize audits by the director of documentation developed or submitted by certified water quality professionals to ensure compliance with requirements established in rules adopted under division (J)(7) of this section;

(7) Establish technical standards to be used by certified water quality professionals in conducting stream assessments and wetlands categorizations;

(8) Authorize the director to require public disclosure, including publication on the environmental protection agency's web site, of all of the following information for each certified water quality professional:

(a) Name;

(b) Qualifications and credentials;

(c) Status of the professional's certifications;

(d) Documents and reports submitted by the certified water quality professional;

(e) Documentation and results of agency audits of the certified water quality professional's work;

(f) Any final disciplinary action related to the certified water quality professional's performance.

(K) Nothing in this section requires an applicant for a section 401 water quality certification or a permit for impacts to an isolated wetland under this chapter to use the services of a certified water quality professional.

(L) As used in this section and section 6111.31 of the Revised Code, "section 401 water quality certification" means certification pursuant to section 401 of the Federal Water Pollution Control Act and this chapter and rules adopted under it that any discharge, as set forth in section 401, will comply with sections 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act.

**Sec. 6111.44.** (A) Except as otherwise provided in division (B) of this section, in section 6111.14 of the Revised Code, or in rules adopted under division (G) of section 6111.03 of the Revised Code, no municipal corporation, county, public institution, corporation, or officer or employee thereof or other person shall provide or install sewerage or treatment works for sewage, sludge, or sludge materials disposal or treatment or make a change in any sewerage or treatment works until the plans therefor have been submitted to and approved by the director of environmental protection. Sections 6111.44 to 6111.46 of the Revised Code apply to sewerage and treatment works of a municipal corporation or part thereof, an unincorporated community, a county sewer district, or other land outside of a municipal corporation or any publicly or privately owned building or group of buildings or place, used for the assemblage, entertainment, recreation, education, correction, hospitalization, housing, or employment of persons.

In granting an approval, the director may stipulate modifications, conditions, and rules that the public health and prevention of pollution may require. Any action taken by the director shall be a matter of public record and shall be entered in the director's journal. Each period of thirty days that a violation of this section continues, after a conviction for the violation, constitutes a separate offense.

(B) Sections 6111.45 and 6111.46 of the Revised Code and division (A) of this section do not apply to any of the following:

(1) Sewerage or treatment works for sewage installed or to be installed for the use of a private residence or dwelling;

(2) Sewerage systems, treatment works, or disposal systems for storm water from an animal feeding facility or manure, as "animal feeding facility" and "manure" are defined in section 903.01 of the Revised Code;

(3) Residual farm products and manure treatment or disposal works and related management and conservation practices that are subject to rules adopted under division (E)(1) of section 939.02 of the Revised Code. As used in division (B)(3) of this section, "residual farm products" and "manure" have the same meanings as in section 939.01 of the Revised Code.

(4) Sewerage or treatment works for the on-lot disposal or treatment of sewage from a small flow on-site sewage treatment system, as defined in section 3718.01 of the Revised Code, if the board of health of a city or general health district has notified the director of health and the director of environmental protection under section 3718.021 of the Revised Code that the board has chosen to regulate the system, provided that the board remains in compliance with the rules adopted under division (A)(13) of section 3718.02 of the Revised Code.

The exclusions established in divisions (B)(2) and (3) of this section do not apply to the

construction or installation of disposal systems, as defined in section 6111.01 of the Revised Code, that are located at an animal feeding facility and that store, treat, or discharge wastewaters that do not include storm water or manure or that discharge to a publicly owned treatment works.

**Sec. 6111.99.** (A) Whoever purposely violates section 6111.04, 6111.042, 6111.05, or division (A) or (C) of section 6111.07 of the Revised Code is guilty of a felony and shall be fined not more than twenty-five thousand dollars or imprisoned not more than four years, or both. Each day of violation is a separate offense.

(B) Whoever knowingly violates section 6111.04, 6111.042, 6111.045, 6111.047, 6111.05, 6111.45, or division (A) or (C) of section 6111.07 of the Revised Code is guilty of a misdemeanor and shall be fined not more than ten thousand dollars or imprisoned not more than one year, or both. Each day of violation is a separate offense.

(C) Whoever violates section 6111.46 of the Revised Code shall be fined not more than five hundred dollars.

(D) Whoever violates section 6111.42 of the Revised Code shall be fined not more than one hundred dollars for a first offense; for each subsequent offense, the person shall be fined not more than one hundred fifty dollars.

(E) Whoever violates section 6111.44 of the Revised Code shall be fined not more than ten thousand dollars. Each day of violation is a separate offense.

(F) If a person is convicted of or pleads guilty to a violation of any section of this chapter, in addition to the financial sanctions authorized by this chapter or section 2929.18 or 2929.28 or any other section of the Revised Code, the court imposing the sentence on the person may order the person to reimburse the state agency or a political subdivision for any actual costs that it incurred in responding to the violation, including the cost of restoring affected aquatic resources or otherwise compensating for adverse impact to aquatic resources directly caused by the violation, but not including the costs of prosecution.

**Sec. 6117.021.**

**Sec. 6131.23.** The assessments estimated in accordance with section 6131.14 of the Revised Code shall be payable in not less than two semiannual installments. At the time of the final hearing, in the order approving the levying of the assessments, the board of county commissioners shall determine how long a period of time, in semiannual installments, as taxes are paid, shall be given the owners of land benefited to pay the assessments that are made for an improvement and whether or not bonds or notes shall be issued and sold in anticipation of such payments. If bonds or notes are to be issued, the interest shall be added to the assessments. If the estimated cost of the improvement does not exceed five hundred dollars, not more than two semiannual installments, as taxes are paid, shall be given to owners of lands benefited to pay the assessments that are made for the improvement. If the estimated cost of the improvement exceeds five hundred dollars, the board may determine the number of installments in which the assessments are to be paid. If any such assessment is twenty-five dollars or less, or whenever the unpaid balance of any such assessment is twenty-five dollars or less, the same shall be paid in full, and not in installments, at the time the first or next installment would otherwise become due.

When assessments are payable in installments and county general funds are used to pay for the improvement, the assessment shall not exceed thirty semiannual installments, as computed by the

county auditor pursuant to section 6131.49 of the Revised Code, and shall be payable upon completion of the contract.

When assessments are made payable in installments and bonds or notes have been sold to pay for the improvement, interest shall be added to the installments of assessments at the same rate as is drawn by the bonds or notes issued to pay for the improvements. Any owner may pay the estimated assessments on the owner's land in cash within thirty days after the final hearing without paying any interest thereon. If the legislative authority of a political subdivision chooses to pay the assessments on all parcels within the subdivision, both public and private, in one installment, it shall pass a resolution so stating and shall send the resolution, or a copy thereof, to the board of county commissioners before making the payment. The legislative authority shall pay all subsequent maintenance assessments levied under section 6137.03 of the Revised Code if it chooses to pay the construction assessments on all parcels within the subdivision.

Bonds may be sold for any repayment period that the board of county commissioners may determine proper, not to exceed thirty semiannual installments, except that for bonds sold by a board of county commissioners for soil and water conservation district improvements pursuant to section 940.33 of the Revised Code, the repayment period shall not exceed thirty semiannual installments.

**Sec. 6301.16.**

**Sec. 6301.17.**

**Section 101.02.** That existing sections 1.05, 9.312, 9.333, 9.83, 9.833, 9.90, 9.901, 102.02, 102.022, 103.412, 105.41, 109.57, 109.572, 109.77, 109.79, 113.06, 113.07, 118.023, 118.04, 119.04, 119.12, 121.03, 121.04, 121.22, 121.36, 121.372, 121.40, 122.17, 122.171, 122.174, 122.175, 122.177, 122.64, 122.68, 122.85, 122.87, 122.942, 122.95, 122.951, 123.10, 123.28, 123.281, 124.11, 124.14, 124.15, 124.152, 124.181, 124.34, 124.382, 124.392, 125.02, 125.04, 125.041, 125.05, 125.07, 125.08, 125.081, 125.082, 125.10, 125.11, 125.112, 125.13, 125.27, 125.28, 125.31, 125.36, 125.38, 125.39, 125.42, 125.43, 125.45, 125.49, 125.51, 125.58, 125.601, 125.607, 125.609, 125.76, 125.901, 126.32, 128.021, 128.40, 128.54, 128.55, 128.57, 131.09, 131.15, 131.34, 131.35, 131.43, 131.44, 133.01, 133.04, 133.05, 133.07, 133.34, 135.01, 135.04, 135.14, 135.144, 135.145, 135.18, 135.181, 135.35, 135.353, 135.354, 135.37, 135.74, 140.01, 141.04, 145.114, 145.116, 145.56, 145.571, 149.04, 149.43, 153.08, 153.70, 156.01, 156.02, 156.04, 167.06, 173.47, 173.48, 173.522, 173.523, 173.543, 173.544, 173.545, 174.02, 187.03, 191.04, 191.06, 305.31, 306.35, 319.63, 321.24, 323.13, 325.03, 325.04, 325.06, 325.08, 325.09, 325.10, 325.11, 325.14, 325.15, 339.06, 340.03, 340.034, 340.04, 340.05, 340.07, 340.12, 340.15, 341.34, 343.01, 349.01, 349.03, 349.04, 349.06, 349.07, 349.14, 355.02, 355.03, 355.04, 505.101, 505.24, 505.701, 505.86, 507.09, 507.11, 517.07, 517.15, 717.01, 718.01, 718.04, 718.05, 718.07, 718.37, 731.59, 737.41, 742.114, 742.116, 742.462, 742.47, 759.36, 901.08, 901.21, 901.22, 902.01, 903.01, 903.03, 903.07, 903.082, 903.09, 903.10, 903.11, 903.12, 903.13, 903.16, 903.17, 903.25, 905.31, 905.323, 918.41, 931.01, 931.02, 941.14, 953.22, 955.12, 955.121, 955.14, 955.15, 955.20, 955.27, 991.03, 1306.20, 1309.528, 1332.25, 1347.08, 1349.04, 1501.01, 1501.011, 1501.022, 1501.04, 1503.99, 1505.10, 1506.01, 1509.01, 1509.06, 1509.11, 1509.23, 1509.27, 1509.28, 1509.33, 1511.02, 1511.02, 1511.021, 1511.021, 1511.022, 1511.022, 1511.03, 1511.03, 1511.05, 1511.05, 1511.071, 1511.071, 1511.10, 1511.10, 1511.11, 1511.11, 1513.07, 1513.16, 1514.06, 1514.08, 1514.13, 1514.40,

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3704.14, 3705.08, 3709.03, 3709.05, 3709.07, 3709.41, 3714.051, 3714.07, 3714.073, 3714.08, 3714.09, 3718.03, 3734.01, 3734.02, 3734.021, 3734.029, 3734.07, 3734.50, 3734.551, 3734.57, 3734.822, 3734.901, 3736.03, 3736.05, 3736.06, 3737.17, 3737.84, 3743.07, 3743.20, 3743.44, 3743.45, 3743.63, 3743.65, 3743.75, 3745.015, 3745.11, 3745.70, 3750.081, 3750.13, 3769.03, 3769.08, 3769.083, 3769.087, 3769.089, 3769.101, 3770.01, 3770.03, 3770.05, 3770.07, 3772.02, 3772.03, 3772.99, 3773.33, 3773.41, 3773.42, 3781.10, 3794.07, 3901.491, 3903.81, 3905.33, 3905.481, 3929.86, 3959.01, 3959.12, 4115.03, 4117.01, 4117.10, 4121.03, 4121.121, 4123.322, 4301.12, 4301.43, 4301.61, 4301.639, 4303.181, 4303.182, 4303.184, 4501.21, 4503.181, 4503.535, 4503.77, 4503.78, 4505.06, 4507.21, 4511.191, 4513.611, 4513.67, 4519.10, 4707.02, 4715.18, 4723.06, 4723.08, 4723.482, 4723.50, 4723.88, 4725.40, 4725.411, 4725.51, 4729.51, 4729.53, 4729.541, 4729.56, 4729.80, 4729.82, 4729.84, 4729.86, 4730.14, 4730.25, 4731.07, 4731.141, 4731.15, 4731.22, 4731.222, 4731.225, 4731.24, 4731.26, 4731.281, 4731.282, 4731.293, 4731.295, 4731.296, 4731.297, 4731.299, 4731.41, 4732.10, 4735.06, 4735.13, 4735.141, 4736.12, 4741.03, 4741.11, 4741.12, 4741.17, 4741.19, 4741.22, 4741.31, 4760.02, 4760.03, 4760.031, 4760.032, 4760.04, 4760.05, 4760.06, 4760.13, 4760.131, 4760.132, 4760.15, 4760.16, 4760.18, 4762.06, 4762.13, 4763.01, 4763.07, 4774.06, 4774.13, 4778.06, 4778.14, 4905.71, 4905.81, 4909.161, 4923.04, 4927.01, 4927.02, 4927.07, 4927.11, 4927.15, 4928.54, 4928.55, 4929.164, 5101.073, 5101.54, 5101.60, 5101.61, 5101.611, 5101.62, 5101.69, 5101.71, 5101.72, 5101.91, 5101.92, 5101.98, 5101.98, 5101.99, 5103.02, 5104.01, 5104.013, 5104.015, 5104.016, 5104.017, 5104.018, 5104.03, 5104.036, 5104.04, 5104.09, 5104.30, 5104.31, 5104.34, 5104.37, 5104.38, 5104.99, 5107.05, 5107.64, 5115.04, 5119.01, 5119.10, 5119.11, 5119.161, 5119.18, 5119.186, 5119.21, 5119.23, 5119.25, 5119.28, 5119.31, 5119.33, 5119.34, 5119.341, 5119.36, 5119.361, 5119.365, 5119.41, 5119.44, 5119.61, 5119.94, 5119.99, 5120.112, 5120.135, 5120.28, 5120.38, 5120.381, 5120.382, 5122.31, 5122.36, 5123.032, 5123.033, 5123.08, 5123.16, 5123.161, 5123.162, 5123.163, 5123.164, 5123.166, 5123.167, 5123.169, 5123.1610, 5123.19, 5123.196, 5123.198, 5123.86, 5124.101, 5124.15, 5124.33, 5124.60, 5124.61, 5124.67, 5126.042, 5126.0510, 5126.15, 5126.201, 5126.54, 5139.02, 5139.03, 5139.50, 5147.07, 5160.37, 5162.01, 5162.11, 5162.12, 5162.13, 5162.36, 5162.361, 5162.363, 5163.03, 5163.06, 5163.21, 5163.30, 5163.33, 5164.01, 5164.38, 5164.57, 5165.15, 5165.151, 5165.152, 5165.157, 5165.16, 5165.17, 5165.19, 5165.192, 5165.23, 5166.01, 5166.16, 5167.03, 5168.01, 5168.06, 5168.07, 5168.10, 5168.11, 5168.23, 5168.26, 5168.40, 5168.44, 5168.45, 5168.47, 5168.48, 5168.49, 5168.53, 5168.60, 5168.63, 5168.64, 5168.67, 5301.68, 5301.69, 5501.73, 5505.068, 5505.0610, 5505.22, 5505.261, 5513.01, 5537.05, 5575.01, 5703.057, 5703.21, 5703.36, 5705.19, 5705.194, 5705.21, 5705.212, 5705.214, 5705.34, 5709.17, 5709.62, 5709.63, 5709.632, 5709.67, 5709.73, 5713.30, 5715.01, 5715.39, 5725.22, 5725.33, 5725.98, 5726.01, 5726.50, 5727.031, 5727.06, 5727.11, 5727.111, 5727.15, 5727.75, 5727.80, 5727.81, 5727.811, 5727.84, 5727.85, 5727.86, 5729.16, 5729.98, 5733.0610, 5733.58, 5736.01, 5736.02, 5736.50, 5739.01, 5739.02, 5739.026, 5739.029, 5739.09, 5739.101, 5739.102, 5739.103, 5739.13, 5741.01, 5741.03, 5741.12, 5741.17, 5743.02, 5743.05, 5743.32, 5747.01, 5747.02, 5747.05, 5747.055, 5747.058, 5747.08, 5747.113, 5747.21, 5747.37, 5747.50, 5747.51, 5747.53, 5747.71, 5747.98, 5751.01, 5751.02, 5751.20, 5751.21, 5751.22, 5751.50, 5902.02, 5903.12, 5904.01, 5910.08, 5919.341, 6101.16, 6109.21, 6109.30, 6111.01, 6111.02, 6111.027, 6111.03, 6111.04, 6111.044, 6111.12, 6111.30, 6111.44, 6111.99, and 6131.23 of the Revised Code



are hereby repealed.

Section 123.28 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 64 and Am. H.B. 141 of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act. Section 321.24 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. S.B. 353 of the 127th General Assembly and Am. Sub. H.B. 1 of the 128th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act. Section 119.12 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 52 and Am. Sub. H.B. 64 of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act. Section 9.833 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 483 and Sub. S.B. 3 of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act. Section 121.22 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 158 and Sub. H.B. 413 of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act. Section 109.57 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 359 and Am. Sub. S.B. 227 of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Section 941.14 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 64 and Am. Sub. H.B. 131 of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Section 1739.05 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 463 and Sub. S.B. 319 of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the

composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Section 2151.421 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 158 and Am. Sub. H.B. 493 of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act. Section 2925.03 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. H.B. 64, H.B. 171, and Sub. S.B. 204, all of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act. Section 2929.18 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 60 and Sub. H.B. 359 of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Section 3302.036 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 64 and Am. Sub. H.B. 70 of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act. Section 3313.603 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 49 and Sub. H.B. 170 of the 132nd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Section 3328.24 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 410 and Sub. S.B. 3 of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Section 3501.01 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 64 and Am. H.B. 153 of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Section 4730.25 of the Revised Code is presented in this act as a composite of the section as

amended by Am. Sub. H.B. 64 and Sub. S.B. 110 of the 131st General Assembly and Am. Sub. H.B. 394 and Am. Sub. S.B. 276 of the 130th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act. Section 4303.182 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 342 and Sub. S.B. 293 of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act. Section 3772.03 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 49 and Sub. H.B. 132 of the 132nd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act. Section 3772.99 of the Revised Code is presented in this act as a composite of the section as amended by both H.B. 32 and Am. Sub. H.B. 49 of the 132nd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act. Section 4707.02 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 64 and Am. Sub. H.B. 131 of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act. Section 4730.14 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. S.B. 110 and Am. Sub. H.B. 64 of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Section 5162.01 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 89 and Sub. S.B. 332 of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Section 5747.01 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 24 and Sub. S.B. 22 of the 132nd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as

presented in this act. Section 5713.30 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 523 and Sub. S.B. 75 of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act. Section 5747.51 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 166 and Sub. H.B. 390 of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Section 6111.03 of the Revised Code is presented in this act as a composite of the section as amended by both Am. S.B. 2 and Am. Sub. H.B. 49 of the 132nd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Section 6111.30 of the Revised Code is presented in this act as a composite of the section as amended by both Am. S.B. 2 and Am. Sub. H.B. 49 of the 132nd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act. Section 6111.04 of the Revised Code is presented in this act as a composite of the section as amended by both Am. S.B. 2 and Am. Sub. H.B. 49 of the 132nd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20 \_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_